

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DANIEL ANDERSEN,
Plaintiff,

vs.

No. 16-cv-1963

CITY OF CHICAGO, JAMES
BEDNARKIEWICZ #6793, RICHARD
BEDRAN #2812, CRAIG CEGIELSKI
#14238, DAN FITZGERALD #9342,
JOHN HERMAN #12088, JAMES
HIGGINS #3094, DANIEL MCWEENY
#14367, TED MELKO #11558, PAUL
NIELSEN #8060, JOHN OLSON
#3357, L. PAWLOWSKI #2525,
M. RAJEWSKI #12601, MICHAEL
RILEY [STAR # UNK], RICHARD
ROCHOWICZ #2812, and UNKNOWN
EMPLOYEES OF THE CITY OF
CHICAGO,

Defendants.

The deposition of RICHARD J. BRZECZEK,

called for examination pursuant to the Rules of
Civil Procedure for the United States District
Courts pertaining to the taking of depositions,
taken before Patricia L. Wangler, Certified
Shorthand Reporter in the State of Illinois, at
20 South Clark Street, Chicago, Illinois, on
November 29, 2018, commenced at the hour of
10:08 a.m., and terminated at the hour of 3:27 p.m.
Reported By: Patricia L. Wangler, CSR
License No.: 084-002417

RICHARD J. BRZECZEK

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<p>Page 2</p> <p>1 APPEARANCES:</p> <p>2 LOEVY & LOEVY, by</p> <p>3 MS. ROSHNA BALA KEEN</p> <p>4 312 North May Street, Suite 100</p> <p>5 Chicago, Illinois 60607</p> <p>6 (312) 243-5900</p> <p>7 roshna@loevy.com</p> <p>8 Representing the Plaintiff,</p> <p>9</p> <p>10 ROCK FUSCO & CONNELLY, LLC, by</p> <p>11 MS. STACY A. BENJAMIN</p> <p>12 321 North Clark Street, Suite 2200</p> <p>13 Chicago, Illinois 60654</p> <p>14 (312) 494-1000</p> <p>15 sbenjamin@rfclaw.com</p> <p>16 Representing the Defendant</p> <p>17 City of Chicago,</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>Page 4</p> <p>1 I N D E X</p> <p>2 WITNESS EXAMINATION</p> <p>3 RICHARD J. BRZECZEK</p> <p>4 By Ms. Itchhaporia 6</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10 E X H I B I T S</p> <p>11 NUMBER MARKED FOR ID</p> <p>12 Brzeczek Deposition</p> <p>13 Exhibit No. 1 19</p> <p>14 Exhibit No. 2 73</p> <p>15 Exhibit No. 3 80</p> <p>16 Exhibit No. 4 103</p> <p>17 Exhibit No. 6 136</p> <p>18 Exhibit No. 7 136</p> <p>19 Exhibit No. 8 182</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p>Page 3</p> <p>1 APPEARANCES CONTINUED:</p> <p>2 BORKAN & SCAHILL, LTD., by</p> <p>3 MS. MISHA ITCHHAPORIA</p> <p>4 20 South Clark Street, Suite 1700</p> <p>5 Chicago, Illinois 60603</p> <p>6 (312) 580-1030</p> <p>7 mitchhaporia@borkanscahill.com</p> <p>8 Representing the individual Defendants.</p> <p>9</p> <p>10 ALSO PRESENT:</p> <p>11 MR. TIM KELLY, Videographer.</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>Page 5</p> <p>1 THE VIDEOGRAPHER: Good morning. We are on the</p> <p>2 record. This is the videotaped deposition of</p> <p>3 Richard Brzeczek in the matter of Daniel Andersen</p> <p>4 versus City of Chicago, et al. This deposition is</p> <p>5 taking place at 20 South Clark Street, Suite 1700,</p> <p>6 in Chicago, Illinois, on November 29th, 2018, at</p> <p>7 10:08 a.m.</p> <p>8 My name is Tim Kelly. I am the</p> <p>9 videographer with U.S. Legal Support located at</p> <p>10 200 West Jackson Boulevard in Chicago, Illinois.</p> <p>11 Video and audio recording will be taking place</p> <p>12 unless all counsel have agreed to go off the</p> <p>13 record.</p> <p>14 Will all present please identify</p> <p>15 themselves beginning with the witness.</p> <p>16 THE WITNESS: Richard Brzeczek.</p> <p>17 MS. KEEN: Roshna Keen representing plaintiff.</p> <p>18 MS. ITCHHAPORIA: Misha Itchhaporia on behalf</p> <p>19 of the individual defendants.</p> <p>20 MS. BENJAMIN: Stacy Benjamin for defendant</p> <p>21 City of Chicago.</p> <p>22 THE VIDEOGRAPHER: The certified court reporter</p> <p>23 is Patti Wangler.</p> <p>24 Please swear in the witness.</p>

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<p style="text-align: right;">Page 6</p> <p>1 THE COURT REPORTER: Raise your right hand, 2 please. 3 (Witness sworn.) 4 MS. ITCHHAPORIA: Let the record reflect this 5 is the deposition of Richard Brzeczczek taken 6 pursuant to subpoena, agreement of the parties and 7 according to the Federal Rules of Civil Procedure 8 and all applicable local rules of the 9 Northern District of Illinois. 10 RICHARD J. BRZECZEK, 11 called as a witness herein, having been first duly 12 sworn, was examined and testified as follows: 13 EXAMINATION 14 BY MS. ITCHHAPORIA: 15 Q. Mr. Brzeczczek, have you given a deposition 16 before? 17 A. Yes, I have. 18 Q. And so I assume that you are familiar with 19 the rules that govern depositions? 20 A. I think I am, yes. 21 Q. Okay. The only -- the only thing that I 22 will go over as far as the ground rules is that if 23 you can just make sure all of your responses are 24 out loud and that you wait until I get my entire</p>	<p style="text-align: right;">Page 8</p> <p>1 THE WITNESS: Yes. Yes. 2 MS. ITCHHAPORIA: Yeah. And it includes your 3 notes that I don't have. We don't have your notes 4 yet. 5 THE WITNESS: Right. Just -- just so you 6 understand, my notes consist of highlighting 7 documents because they are PDF format and making 8 notes in the margin so you have all of those. 9 BY MS. ITCHHAPORIA: 10 Q. Okay. Perfect. 11 MS. KEEN: What I could do, we probably should 12 Bates stamp everything just so that we have 13 identification. So I could -- you can take that 14 flash drive if you want just so you have it now. 15 But we will also Bates stamp. 16 MS. ITCHHAPORIA: Sure. I can produce it Bates 17 stamped after the deposition. 18 MS. KEEN: You could produce it or I can 19 reproduce all of that with Bates stamps. 20 MS. ITCHHAPORIA: Okay. We'll figure it out. 21 Let the record reflect that the witness 22 has tendered a flash drive with the documents 23 responsive to subpoena for the records. 24</p>
<p style="text-align: right;">Page 7</p> <p>1 question out so that we have a clean record. Is 2 that okay? 3 A. Understood. 4 Q. Did you receive a subpoena that requested 5 that you bring all the materials that you reviewed 6 in preparation? 7 A. Yes, I did. 8 Q. And you have those materials with you 9 today? 10 A. I have them on a flash drive -- 11 Q. Okay. 12 A. -- along with my notes in connection with 13 those materials. I will tender those now if you 14 want those. 15 Q. Okay. 16 MS. KEEN: Yes. 17 MS. ITCHHAPORIA: We will make a -- do you have 18 a copy? 19 MS. KEEN: I didn't look at the -- I didn't 20 look -- plug this in. But you put your -- all your 21 materials that you reviewed? 22 THE WITNESS: All my materials on there 23 including -- 24 MS. KEEN: So this is for Misha I believe?</p>	<p style="text-align: right;">Page 9</p> <p>1 BY MS. ITCHHAPORIA: 2 Q. Mr. Brzeczczek, what did you do in 3 preparation for your deposition today? 4 A. Besides the initial task of the documents 5 that were provided to me which led to the writing 6 of my report? Is that what you are saying, after 7 that? 8 Q. Correct. 9 A. I simply reviewed my report. There may 10 have been one or two references in my report that I 11 double-checked. I will tell you that on page 2 of 12 my report there is a mistake down toward the bottom 13 of the page on the right-hand margin. It's -- I 14 used the word Trunko, T-R-U-N-K-O. It is right 15 where your right thumb is. 16 Q. Okay. 17 A. And it should be LaGace. 18 THE COURT REPORTER: And, I am sorry, what? 19 THE WITNESS: It should be LaGace, L-A-G-A-C-E. 20 So those are things I did in preparation today -- 21 for today. 22 BY MS. ITCHHAPORIA: 23 Q. So you reviewed your report, 24 double-checked some references?</p>

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<p style="text-align: right;">Page 10</p> <p>1 A. Right. Right.</p> <p>2 Q. Do you know which references you</p> <p>3 double-checked?</p> <p>4 A. The ones that look like they are RFC. And</p> <p>5 there is a number after them. I just wanted to</p> <p>6 make sure that I remembered what those were because</p> <p>7 it isn't like just saying page so-and-so of</p> <p>8 someone's deposition or it's not like referring to</p> <p>9 a Case Report or a Supplementary Report.</p> <p>10 I was using the reference of the document</p> <p>11 as it was given to me. So I wanted to just refresh</p> <p>12 my memory as to what that reference number was.</p> <p>13 Q. Okay. So you the documents were Bates</p> <p>14 stamped RFC something --</p> <p>15 A. Yes.</p> <p>16 Q. -- and then you looked at the document?</p> <p>17 A. Yes. Just to -- just to see what the</p> <p>18 document was that's the RFC because I couldn't tell</p> <p>19 in some cases exactly what the document was that I</p> <p>20 referenced.</p> <p>21 Q. Do you remember what those documents</p> <p>22 actually were?</p> <p>23 A. No. I don't even know if I did all of</p> <p>24 them. But, no, I know I didn't do all of them. I</p>	<p style="text-align: right;">Page 12</p> <p>1 both had other things we were focused on. But it</p> <p>2 was within that two-and-a-half- to three-hour</p> <p>3 period.</p> <p>4 Q. Okay. Can you estimate within that two-</p> <p>5 to three-hour period of time how long you met with</p> <p>6 Roshna for?</p> <p>7 A. I would say two hours maybe.</p> <p>8 Q. So is it accurate to say then you met with</p> <p>9 Roshna for two hours? And then you reviewed your</p> <p>10 report and the references for an hour?</p> <p>11 A. In between, yes. It didn't take all that</p> <p>12 long to read the report and checking the</p> <p>13 references.</p> <p>14 Q. Was yesterday the first time that you</p> <p>15 reviewed your report since submitting it on</p> <p>16 October 1st, 2018?</p> <p>17 A. Yes, I think so. I -- I -- I just don't</p> <p>18 have any independent recollection of looking at it</p> <p>19 between the dates that you gave me.</p> <p>20 Q. And yesterday being November 28th, 2018?</p> <p>21 A. That's correct.</p> <p>22 Q. During your meeting with Roshna, did you</p> <p>23 review or look at any documents that we haven't</p> <p>24 talked about already?</p>
<p style="text-align: right;">Page 11</p> <p>1 did a couple of them to, again, familiarize myself</p> <p>2 with the RFC numbering.</p> <p>3 Q. Okay. Did you review any other materials</p> <p>4 or documents in preparation for your deposition</p> <p>5 here today?</p> <p>6 A. No.</p> <p>7 Q. How long did you spend reviewing the</p> <p>8 report and double-checking those references?</p> <p>9 A. Maybe two and a half, three hours.</p> <p>10 Q. Did you meet with Miss Keen or any other</p> <p>11 attorneys representing Mr. Andersen --</p> <p>12 A. Yes.</p> <p>13 Q. -- in preparing for your deposition?</p> <p>14 A. Yes.</p> <p>15 Q. When did you meet with --</p> <p>16 A. Yesterday.</p> <p>17 Q. Who did you meet with?</p> <p>18 A. Roshna.</p> <p>19 Q. Did you meet with anyone besides Roshna?</p> <p>20 A. No.</p> <p>21 Q. How long did you and Roshna meet for?</p> <p>22 A. It was during that two-and-a-half- to</p> <p>23 three-hour period that I reviewed documents. We</p> <p>24 were not meeting the entire time, you know. We</p>	<p style="text-align: right;">Page 13</p> <p>1 A. That we have not talked about?</p> <p>2 Q. Right.</p> <p>3 A. No.</p> <p>4 Q. During your meeting with Roshna yesterday,</p> <p>5 did you review any materials or documents that are</p> <p>6 not listed on your expert report?</p> <p>7 A. No.</p> <p>8 Q. One of the documents that you reviewed</p> <p>9 that's indicated on your expert report is the</p> <p>10 complaint that was filed by Mr. Andersen in this</p> <p>11 case; is that correct?</p> <p>12 A. Yes.</p> <p>13 Q. Do you personally know any of the</p> <p>14 individual defendants that were named in that</p> <p>15 complaint?</p> <p>16 A. You know, I am going to say no although,</p> <p>17 you know, I know names and I can put faces with the</p> <p>18 names, but I don't have any personal relationship</p> <p>19 with any of the individual defendants.</p> <p>20 Q. Just so I have a clean record I am going</p> <p>21 to go through each of the individual defendants</p> <p>22 that were named in the complaint. Okay? So do you</p> <p>23 personally know James Bednarkiewicz?</p> <p>24 A. I don't think so.</p>

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<p style="text-align: right;">Page 14</p> <p>1 Q. Do you personally know Paul Nielsen?</p> <p>2 A. No.</p> <p>3 Q. Do you personally know John Olson?</p> <p>4 A. No.</p> <p>5 Q. Do you personally know Michael Riley?</p> <p>6 A. No.</p> <p>7 Q. Do you personally know James Higgins?</p> <p>8 A. I don't think so.</p> <p>9 Q. Do you personally know Daniel McWeeny?</p> <p>10 A. I think I have met him on occasion, but</p> <p>11 I -- that's about it. That would be, you know,</p> <p>12 within the performance of our employee functions</p> <p>13 with the police department.</p> <p>14 Q. Is he one of the individuals that you can</p> <p>15 put a face to the name?</p> <p>16 A. No.</p> <p>17 Q. Okay. Who was the individual that you</p> <p>18 could put a face to?</p> <p>19 A. Rochowicz.</p> <p>20 Q. Do you know when the last time was that</p> <p>21 you met Mr. McWeeny?</p> <p>22 A. If I didn't cross-examine him during a</p> <p>23 trial since 1983, it would be before</p> <p>24 April 29th, 1983.</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. Norbert, N-O-R-B-E-R-T, Rajewski,</p> <p>2 R-A-J-E-W-S-K-I?</p> <p>3 A. No.</p> <p>4 Q. Do you personally know Larry Pawlowski?</p> <p>5 A. No.</p> <p>6 Q. And do you know personally know Daniel</p> <p>7 Fitzgerald?</p> <p>8 A. No.</p> <p>9 Q. And do you personally know Craig</p> <p>10 Cegielski?</p> <p>11 A. Again, I know Cegielski by name. I</p> <p>12 don't -- today I could not put a face to that name</p> <p>13 or a name to that face. But I do know of Cegielski</p> <p>14 being a detective in the Chicago Police Department.</p> <p>15 Q. Did you ever work with Mr. Cegielski in</p> <p>16 any capacity during your employment with the</p> <p>17 Chicago Police Department?</p> <p>18 A. No.</p> <p>19 Q. Do you personally know Ted or Thaddeus</p> <p>20 Melko?</p> <p>21 A. Spell the last name.</p> <p>22 Q. M-E-L-K-O.</p> <p>23 A. No.</p> <p>24 Q. And do you personally know Richard</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. And that's the date that you retired from</p> <p>2 CPD?</p> <p>3 A. I resigned. I didn't retire.</p> <p>4 Q. Do you have a memory of crossing</p> <p>5 Mr. McWeeny at any trials after you resigned from</p> <p>6 CPD on April 29, 1983?</p> <p>7 A. No specific memory. I am just saying</p> <p>8 unless I did cross-examine him at trial. I have</p> <p>9 not seen him since I left the police department.</p> <p>10 Q. And during your employment at CPD, if you</p> <p>11 did meet with Mr. McWeeny, it was in your capacity</p> <p>12 as an employee of the Chicago Police Department?</p> <p>13 A. Yes.</p> <p>14 Q. Did you ever work with Mr. McWeeny in any</p> <p>15 capacity --</p> <p>16 A. No.</p> <p>17 Q. -- when you were employed --</p> <p>18 A. No.</p> <p>19 Q. -- by the Chicago Police Department?</p> <p>20 A. No.</p> <p>21 Q. Do you personally know Richard Bedran?</p> <p>22 A. No.</p> <p>23 Q. Do you personally know Norbert Rajewski?</p> <p>24 A. Spell it for me.</p>	<p style="text-align: right;">Page 17</p> <p>1 Rochowicz?</p> <p>2 A. You say personally, no, other than, again,</p> <p>3 just -- we may have been in the academy together.</p> <p>4 I do -- I know he was not in my class. But I think</p> <p>5 that we are roughly the same age. I think we</p> <p>6 started about the same time.</p> <p>7 Q. Did you ever work with Mr. Rochowicz in</p> <p>8 any capacity during your employment with Chicago</p> <p>9 Police Department?</p> <p>10 A. No.</p> <p>11 Q. Do you know former ASAs Neil Cohen or</p> <p>12 David Erickson?</p> <p>13 A. I did not know those people as assistant</p> <p>14 state's attorneys. I do know two people with the</p> <p>15 same names who were judges, but I don't know if</p> <p>16 they are the same people.</p> <p>17 Q. Okay. Do you -- did you ever have any</p> <p>18 dealings with either Mr. Cohen or Mr. Erikson in</p> <p>19 their capacity as judges?</p> <p>20 A. As what?</p> <p>21 Q. Judges.</p> <p>22 A. If these are the same people, I think I</p> <p>23 appeared in front of both of them. That's how I</p> <p>24 know them.</p>

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<p style="text-align: right;">Page 18</p> <p>1 Q. Okay. Have you ever had a trial before 2 either Judge Cohen or Judge Erikson? 3 A. Not that I recall. 4 Q. Do you know former criminal defense 5 attorney Sheila Murphy? 6 A. Yes. 7 Q. How do you know Sheila Murphy? 8 A. I know she was a judge at one time. She 9 was the presiding judge of the Sixth Municipal 10 District. I know I knew her before she went on the 11 bench. I don't recall how I knew her before she 12 went on the bench. 13 I think this goes back, again, to the 14 '80s. She may have been a defense attorney at the 15 time I knew her. And then I know she left to take 16 another position. She left the judgeship to take 17 another position. But I have not seen her in more 18 than 20 years. 19 Q. Did you ever appear before her when she 20 was a judge? 21 A. Yes. 22 Q. Did you ever have a trial before her? 23 A. I don't -- I don't really recall if I did 24 or not.</p>	<p style="text-align: right;">Page 20</p> <p>1 bachelor of science degree from Loyola University 2 in 1965? 3 A. That's correct. 4 Q. And your major was biology? 5 A. Yes. 6 Q. And then you received an MPA from the 7 Illinois Institute of Technology? 8 A. That's correct. 9 Q. And that was a master's in public 10 administration? 11 A. Yes. 12 Q. And you got that in 1968; is that right? 13 A. Right. 14 Q. And then you obtained your law degree from 15 John Marshall Law School in 1972; correct? 16 A. Yes. 17 Q. Do you have any other degrees other than 18 those three? 19 A. No. 20 Q. And you became a licensed attorney in 21 Illinois in 1972? 22 A. That's correct. 23 Q. Are you licensed in any other state 24 besides Illinois?</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. Are you aware that she was Mr. Andersen's 2 criminal defense attorney? 3 A. No. 4 Q. Until I mentioned that you didn't know 5 that she represented Mr. Andersen back in 1981 and 6 through his criminal trial and direct appeal? 7 A. That's correct. 8 MS. ITCHHAPORIA: Would you mark this, please. 9 (Whereupon, Brzeczek 10 Deposition Exhibit No. 1 was 11 marked for identification.) 12 BY MS. ITCHHAPORIA: 13 Q. Mr. Brzeczek, the court reporter has 14 provided to you what's been marked as Exhibit 1 to 15 your deposition. And this is your 16 curriculum vitae; is that correct? 17 A. That's correct. 18 Q. And on the second page it says Current as 19 of June 23rd, 2018. Do you see that? 20 A. Yes. 21 Q. Are there any updates to your CV since on 22 June 23rd, 2018? 23 A. No. 24 Q. So according to your CV you received a</p>	<p style="text-align: right;">Page 21</p> <p>1 A. No. 2 Q. Is it accurate that you attended 3 John Marshall Law School when you were working as 4 an employee for the Chicago Police Department? 5 A. Yes. 6 Q. Did you go to law school on a full-time 7 basis? 8 A. Part-time. 9 Q. Night school? 10 A. Yes. 11 Q. How long did it take you to get 12 your degree? 13 A. Seven semesters. 14 Q. Have you ever been disciplined by any 15 federal, state, or local agency regarding your 16 license to practice law? 17 A. No. 18 Q. Have you ever been investigated by the 19 Illinois Attorney Registration Disciplinary 20 Commission, the AR -- IARDC? 21 A. You mean as far as someone filing a 22 complaint -- 23 Q. Right. 24 A. -- that I had to respond to?</p>

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<p style="text-align: right;">Page 22</p> <p>1 Q. Yes.</p> <p>2 A. The answer is yes.</p> <p>3 Q. How many times has that occurred?</p> <p>4 A. Forty-five.</p> <p>5 Q. And those are -- strike that.</p> <p>6 Were those complaints filed by former</p> <p>7 clients of yours?</p> <p>8 A. There were -- some were by former clients.</p> <p>9 Some were by existing clients. Just so I'm clear,</p> <p>10 when you asked me the number, I didn't say 4 or 5.</p> <p>11 I said 45.</p> <p>12 Q. Right.</p> <p>13 A. Okay?</p> <p>14 Q. Have you ever been reprimanded or censored</p> <p>15 by the ARDC?</p> <p>16 A. No. I'm not sure if the ARDC can</p> <p>17 reprimand or censor you. I think only the Supreme</p> <p>18 Court can. But I have never had any -- any</p> <p>19 complaint result in any action other than being</p> <p>20 closed out by the ARDC.</p> <p>21 Q. So all 45 complaints were closed out?</p> <p>22 A. Yes. Yes.</p> <p>23 Q. Do you remember the basis of any of those</p> <p>24 complaints?</p>	<p style="text-align: right;">Page 24</p> <p>1 A. If you include the week of field training,</p> <p>2 13 weeks.</p> <p>3 Q. So was that 12 weeks of classroom time and</p> <p>4 then 1 week out in the field?</p> <p>5 A. It is 11, 1 -- 11 weeks in class, 1 in the</p> <p>6 field, 1 the last week in class.</p> <p>7 Q. Do you remember what period of time you</p> <p>8 attended the academy for?</p> <p>9 A. June 8th of 1964 to September 4th of 1964.</p> <p>10 Q. So when you graduated from the academy in</p> <p>11 September 1964, where were you assigned?</p> <p>12 A. 13th district.</p> <p>13 Q. And you were assigned as a patrol officer</p> <p>14 to the 13th district until November 1964; is that</p> <p>15 correct?</p> <p>16 A. Until November '64, yes.</p> <p>17 Q. After November of 1964, where did you go?</p> <p>18 A. The 11th district.</p> <p>19 Q. Do you know why you transferred from the</p> <p>20 13th district to the 11th district?</p> <p>21 A. At that time they rearranged the district</p> <p>22 beats twice a year and called them the winter beats</p> <p>23 and the summer beats. So they transferred a larger</p> <p>24 than normal peop -- number of people out of the</p>
<p style="text-align: right;">Page 23</p> <p>1 A. Everything between A and Z. People would</p> <p>2 ask me about complaints and -- I never was</p> <p>3 intimidated by a client. Most of the complaints</p> <p>4 were domestic relation clients; okay? Which I</p> <p>5 think statistically those are the clients that</p> <p>6 complain about their lawyers the most.</p> <p>7 Secondly, I was never intimidated by the</p> <p>8 ARDC. So if someone said that they are going to</p> <p>9 make a complaint to the bar association, I made</p> <p>10 sure they went to the right place. And I gave them</p> <p>11 little cards with the ARDC's address and phone</p> <p>12 number on there and said be my guest. That's what</p> <p>13 it is there for.</p> <p>14 Q. And just so we are clear, you have never</p> <p>15 been reprimanded or censored by the Illinois</p> <p>16 Supreme Court either?</p> <p>17 A. No.</p> <p>18 Q. According to your CV you began your career</p> <p>19 with the Chicago Police Department in 1964?</p> <p>20 A. That's correct.</p> <p>21 Q. And did you attend the academy?</p> <p>22 A. Yes.</p> <p>23 Q. And how long was the police academy for</p> <p>24 back in 1964?</p>	<p style="text-align: right;">Page 25</p> <p>1 13th district. Some went to the 18th district</p> <p>2 which was adjoining to the east. Some went to the</p> <p>3 11th district adjoining to the west. I went to the</p> <p>4 11th district.</p> <p>5 Q. And you stayed in the 11th district until</p> <p>6 the spring of 1965; is that correct?</p> <p>7 A. That's correct.</p> <p>8 Q. And in the spring of 1965 you were</p> <p>9 transferred from the 11th district to the</p> <p>10 17th district; is that correct?</p> <p>11 A. That's correct.</p> <p>12 Q. So is it accurate to say that you worked</p> <p>13 as a patrol officer from September 1964 until</p> <p>14 October of 1965?</p> <p>15 A. That's correct.</p> <p>16 Q. What were your duties as a patrol officer?</p> <p>17 A. I have walked the post.</p> <p>18 Q. I am sorry?</p> <p>19 A. I walked the post, the patrol. I worked</p> <p>20 the marked squad car both by myself and with a</p> <p>21 partner. Rode a motorcycle. Worked the paddy</p> <p>22 wagon. Worked the desk. Maybe once or twice they</p> <p>23 put me in a lockup to help out. That's about it.</p> <p>24 Q. Okay. And then after October of 1970 --</p>

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<p style="text-align: right;">Page 26</p> <p>1 of 1965 what was your next assignment?</p> <p>2 A. Superintendent's office.</p> <p>3 Q. Again, that was -- you were assigned to</p> <p>4 the Office of the Superintendent under</p> <p>5 Superintendent Wilson; is that correct?</p> <p>6 A. That's correct.</p> <p>7 Q. And you did that from October 1965 until</p> <p>8 March of 1966; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. What were your duties when you were</p> <p>11 assigned to the personal staff of</p> <p>12 Superintendent Wilson?</p> <p>13 A. Primarily I was his driver. Plus I had</p> <p>14 office responsibilities that were really determined</p> <p>15 by him on a daily basis what he wanted me to do.</p> <p>16 Q. Were you working for him in your capacity</p> <p>17 as a patrol officer?</p> <p>18 A. Yes.</p> <p>19 Q. And you did that for less than a year; is</p> <p>20 that right?</p> <p>21 A. Less than six months.</p> <p>22 Q. In March of 1966 you were then transferred</p> <p>23 to Area 4 unit of the Youth Division?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 28</p> <p>1 roll call every morning on the day shift or in the</p> <p>2 afternoon on the afternoon shift. Reported there</p> <p>3 for roll call. We got our assignments, and we went</p> <p>4 out on the street.</p> <p>5 When I talked about Youth Division</p> <p>6 headquarters, that was located at the headquarters</p> <p>7 building at 1121 South State Street on the</p> <p>8 seventh floor. And that was an administrative</p> <p>9 building there.</p> <p>10 Q. When -- did your duties change then when</p> <p>11 you went from Area 4 to the Youth Division</p> <p>12 headquarters?</p> <p>13 A. Yes.</p> <p>14 Q. Let's start with when you were at Area 4,</p> <p>15 what were your duties as a youth officer?</p> <p>16 A. They were spelled out in the</p> <p>17 General Order. One is that there was a statutory</p> <p>18 provision at the time that any police officer who</p> <p>19 made an arrest of a juvenile had to take that</p> <p>20 juvenile to the nearest juvenile police officer</p> <p>21 without delay.</p> <p>22 So one of the responsibilities is is that</p> <p>23 we would process the arrest of juvenile offenders</p> <p>24 made by other police officers whether they were</p>
<p style="text-align: right;">Page 27</p> <p>1 Q. And how long were you with Area 4?</p> <p>2 A. Well, I was assigned to Area 4 for</p> <p>3 four years. But I only worked there -- I only</p> <p>4 worked there maybe about a year and a half to</p> <p>5 two years. And then I was detailed which means</p> <p>6 not -- not transferred on paper, but I was assigned</p> <p>7 to Youth Division headquarters.</p> <p>8 Q. Back in 1966 for that one-and-a-half- to</p> <p>9 two-year time frame when you were assigned to the</p> <p>10 Area 4 unit of the Youth Division, where was that</p> <p>11 located?</p> <p>12 A. 943 West Maxwell Street.</p> <p>13 Q. And was the Youth Division office actually</p> <p>14 located in Area 4?</p> <p>15 A. The Youth Division administrative office</p> <p>16 was assigned -- it was located in the Area 4</p> <p>17 building. We had investigator responsibility for</p> <p>18 four districts. Area 4 at that time consisted of</p> <p>19 the 10th, 11th, 12th, and 13th districts.</p> <p>20 Q. So did you work out of the youth</p> <p>21 administration building -- office? Sorry.</p> <p>22 A. No.</p> <p>23 Q. Okay. Where did you work out of?</p> <p>24 A. Out of Area 4 we reported there for</p>	<p style="text-align: right;">Page 29</p> <p>1 patrol officers or detectives. So that was one</p> <p>2 responsibility established by statute.</p> <p>3 We conducted certain investigations, for</p> <p>4 example, missing persons, bicycle thefts. Now, you</p> <p>5 may think this is funny, but this was in the order,</p> <p>6 theft of hubcaps. Apparently someone thought that</p> <p>7 most hubcaps are stolen by kids.</p> <p>8 We also investigated crimes committed</p> <p>9 against children along with the detectives and in</p> <p>10 some cases crimes committed by children. Those</p> <p>11 were the investigative responsibilities as set out</p> <p>12 by the order at the time.</p> <p>13 Q. When you said that you conducted</p> <p>14 investigations into crimes committed against</p> <p>15 children along with detectives, so does that mean</p> <p>16 that there would be a detective assigned and a</p> <p>17 youth officer?</p> <p>18 A. In most cases, yes, because there was kind</p> <p>19 of a bifurcated approach that was connected at the</p> <p>20 same time. In other words, if the child was a</p> <p>21 victim of sexual assault, the homicide sex unit</p> <p>22 would come in and investigate that. And then the</p> <p>23 youth officers would also be investigating it too.</p> <p>24 Q. As a youth officer did you investigate</p>

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<p style="text-align: right;">Page 30</p> <p>1 sexual assault crimes against children?</p> <p>2 A. Yes.</p> <p>3 Q. And then you said you also investigated</p> <p>4 crimes that were committed by children?</p> <p>5 A. Yes.</p> <p>6 Q. Would that also be along with a detective?</p> <p>7 A. Could be and not -- many times detectives</p> <p>8 would come to us and say that they are looking for</p> <p>9 somebody. They may not know who it is, but they</p> <p>10 know it is a juvenile. They would ask us for some</p> <p>11 help. And based upon our sources, our informants,</p> <p>12 the kids we knew in the area that we worked, we</p> <p>13 helped them out.</p> <p>14 Q. Did you ever investigate a homicide as a</p> <p>15 youth officer?</p> <p>16 A. Yes, many times.</p> <p>17 Q. Do you know how many such investigations</p> <p>18 you were involved in?</p> <p>19 A. No. You are talking about 50 years ago.</p> <p>20 Q. What would your role have been in</p> <p>21 investigating those homicides involving children?</p> <p>22 A. Well, you didn't ask me involving</p> <p>23 children. You said did I investigate homicides as</p> <p>24 a youth officer. And the answer is yes. We</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. Yes.</p> <p>2 A. What's my role? The same as anybody else</p> <p>3 in connection with a homicide. And that is to do a</p> <p>4 component of the investigation with the other</p> <p>5 people so assigned to see if we can solve the crime</p> <p>6 by identifying the offender.</p> <p>7 Now, say roles -- and we had other roles</p> <p>8 too like the crime lab would be out there, maybe an</p> <p>9 evidence technician would be out there, maybe</p> <p>10 different agencies. But, you know, they had</p> <p>11 specific technical functions rather than</p> <p>12 investigative functions.</p> <p>13 Q. Did you receive any training apart from</p> <p>14 the academy for your function as a youth officer?</p> <p>15 A. Apart from the academy?</p> <p>16 Q. Correct.</p> <p>17 A. The training I received prior to becoming</p> <p>18 a youth officer was conducted in the academy.</p> <p>19 Q. Okay. So there was no, like, special</p> <p>20 classroom or on-the-job training to become a youth</p> <p>21 officer?</p> <p>22 A. Both.</p> <p>23 Q. Both.</p> <p>24 A. I was in the classroom. And then you</p>
<p style="text-align: right;">Page 31</p> <p>1 investigated both homicides of adults and homicides</p> <p>2 of children --</p> <p>3 Q. Okay.</p> <p>4 A. -- as a youth officer.</p> <p>5 Q. How was it that you were getting involved</p> <p>6 in investigating homicides of adults as a youth</p> <p>7 officer?</p> <p>8 A. Well, one example would be -- I will give</p> <p>9 you a specific example. A woman found dead in the</p> <p>10 alley somewhere up around North Avenue and Rockwell</p> <p>11 and she had no identification on her. So we got</p> <p>12 involved in that because of a missing person's</p> <p>13 component with the Youth Division, tried to find</p> <p>14 out who she is, tried to identify her.</p> <p>15 And it just turned out that my partner and</p> <p>16 I actually solved that case. We identified the</p> <p>17 offender and located him and arrested him. So</p> <p>18 that's one example how we get involved.</p> <p>19 Q. And then in the case where there was a</p> <p>20 homicide, what would your -- involving children,</p> <p>21 what would your role have been?</p> <p>22 A. I'm not sure I understand the question</p> <p>23 about what my role would be. If there is a</p> <p>24 homicide involving children, is that your question?</p>	<p style="text-align: right;">Page 33</p> <p>1 worked with an experienced youth officer for a</p> <p>2 while until you found out how to prepare all the</p> <p>3 forms and do things on time.</p> <p>4 Q. You said there was a classroom component.</p> <p>5 Is that separate from the academy?</p> <p>6 A. No. All classroom instruction, you know,</p> <p>7 regarding police training was conducted at the</p> <p>8 academy at that time.</p> <p>9 Q. Okay. I guess what I am asking is after</p> <p>10 the 13 weeks when you initially graduated from the</p> <p>11 academy, did you then go back to the academy for</p> <p>12 any classroom training in order to become a youth</p> <p>13 officer?</p> <p>14 A. That's my answer, yes.</p> <p>15 Q. Okay. And how long was that classroom</p> <p>16 training for?</p> <p>17 A. I don't remember.</p> <p>18 Q. During the -- during any investigations</p> <p>19 that you did of a homicide whether it involved</p> <p>20 adults or children when you were a youth officer,</p> <p>21 did you ever obtain a confession?</p> <p>22 MS. KEEN: I am just going to object to the</p> <p>23 form.</p> <p>24 THE WITNESS: Yes.</p>

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<p style="text-align: right;">Page 34</p> <p>1 BY MS. ITCHHAPORIA:</p> <p>2 Q. How many times did you do that?</p> <p>3 A. I don't recall.</p> <p>4 Q. Do you recall that the confession that you</p> <p>5 obtained was ever court reported or if it was an</p> <p>6 oral statement or a handwritten statement?</p> <p>7 MS. KEEN: Objection. Foundation.</p> <p>8 Go ahead.</p> <p>9 THE WITNESS: The time that I was a police</p> <p>10 officer and a youth officer, not the whole time</p> <p>11 that I was a youth officer but at least the early</p> <p>12 time that I was a youth officer was pre-Miranda.</p> <p>13 Okay? Miranda wasn't decided until 1966.</p> <p>14 So when you ask about court reported</p> <p>15 statements, handwritten statements, oral</p> <p>16 statements, back then I don't think that they used</p> <p>17 court reported statements.</p> <p>18 Back then I think that, as I recall, the</p> <p>19 detectives or youth officers would type up the</p> <p>20 statements, question and answer. Of course,</p> <p>21 someone would not -- someone may make an admission</p> <p>22 to you orally but would not reduce to writing that</p> <p>23 admission. You wouldn't have a written statement.</p> <p>24 It would be simply an oral statement.</p>	<p style="text-align: right;">Page 36</p> <p>1 to the Youth Division at State Street, is it</p> <p>2 accurate to say that you went out investigating</p> <p>3 actively on the streets and out in the field?</p> <p>4 A. That's correct.</p> <p>5 Q. After you left the Youth Division in</p> <p>6 March of 1966, where did you go?</p> <p>7 A. I didn't leave the Youth Division in</p> <p>8 March of '66.</p> <p>9 Q. When did you leave?</p> <p>10 A. I left the Youth Division in March of</p> <p>11 1970.</p> <p>12 Q. Okay. And in March of 1970 you became a</p> <p>13 sergeant?</p> <p>14 A. That's correct.</p> <p>15 Q. And was your first assignment as a</p> <p>16 sergeant, was that the Detective Division</p> <p>17 headquarters located at 1121 South State Street?</p> <p>18 A. That's correct.</p> <p>19 Q. What were your duties as a sergeant</p> <p>20 assigned to the Detective Division headquarters?</p> <p>21 A. Again, we had some administrative duties</p> <p>22 in terms of drafting directives for the chief of</p> <p>23 detectives. We had some oversight duty in the</p> <p>24 areas. There were two of us, two sergeants, that</p>
<p style="text-align: right;">Page 35</p> <p>1 BY MS. ITCHHAPORIA:</p> <p>2 Q. What were your duties when you were</p> <p>3 transferred from Area 4 to the Youth Division</p> <p>4 headquarters on State Street?</p> <p>5 A. I worked directly for the director of the</p> <p>6 Youth Division at the time. That was the title of</p> <p>7 the person who headed up the Youth Division,</p> <p>8 director of Youth Division. It was the same</p> <p>9 position as a district commander in the Patrol</p> <p>10 Division.</p> <p>11 I did a lot of things there, work orders,</p> <p>12 drafted orders for his signature. I am talking</p> <p>13 about orders, policy orders regarding the</p> <p>14 Youth Division only.</p> <p>15 I did some review work of reports coming</p> <p>16 in from the various areas. We did some training of</p> <p>17 youth officers. And then there was the usual</p> <p>18 routine work every day in terms of reports coming</p> <p>19 in from different divisions, different bureaus. So</p> <p>20 those were the kinds of duties that I had.</p> <p>21 Q. And you did that for about two years?</p> <p>22 A. Yeah. I would say roughly about</p> <p>23 two years.</p> <p>24 Q. And during the time when you were assigned</p>	<p style="text-align: right;">Page 37</p> <p>1 we would periodically go out and do audits in each</p> <p>2 of the areas, case management audits.</p> <p>3 We would do crime analysis for the chief</p> <p>4 of detectives and for the rest of the department in</p> <p>5 terms of trends. Sometimes -- sometimes we would</p> <p>6 get involved kind of in a tangential way for the</p> <p>7 chief of detectives in a major investigation.</p> <p>8 We would -- I know that I would help the</p> <p>9 detectives in the bomb and arson unit and some of</p> <p>10 them in the -- what was called the central</p> <p>11 intelligence unit at the time. Those were</p> <p>12 operational units working out of our office. I</p> <p>13 would help them draft search warrants. Those are</p> <p>14 some of the things that I can remember.</p> <p>15 Q. And you were still going to law school</p> <p>16 during the time that you were a sergeant of the</p> <p>17 Detective Division?</p> <p>18 A. Yes.</p> <p>19 Q. What year did you start at John Marshall</p> <p>20 Law School?</p> <p>21 A. September 1968.</p> <p>22 Q. Okay. You said as part of your duties as</p> <p>23 a detective assigned to the division,</p> <p>24 Detective Division headquarters, you would do</p>

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<p style="text-align: right;">Page 38</p> <p>1 audits of case management. What is that?</p> <p>2 A. Well, what happened is at that time there</p> <p>3 was a multicopy form. As I recall, it was like a</p> <p>4 3 by 5, a 3 by 5 index card size. And that was</p> <p>5 generated for every Case Report that required a</p> <p>6 follow-up investigation by detectives. And that --</p> <p>7 I am trying to think if it was sometimes referred</p> <p>8 to colloquially as a case management slip.</p> <p>9 But detectives were assigned to a case.</p> <p>10 And if you wanted to know who was assigned to a</p> <p>11 case, you looked at that case management slip. So</p> <p>12 you could be assigned to a case and you would have</p> <p>13 responsibility for that case despite the fact that</p> <p>14 multiple detectives may be working on it or have</p> <p>15 been working on it.</p> <p>16 But somebody had responsibility for that</p> <p>17 case because reports had to be submitted in a</p> <p>18 timely fashion. And a case detective, a detective</p> <p>19 assigned to the case was responsible for that</p> <p>20 happening.</p> <p>21 So we would go out to the areas, you know,</p> <p>22 generally unannounced and sit down and pull out the</p> <p>23 case management slips and audit them and see the</p> <p>24 timeliness of the reports and if the provisions of</p>	<p style="text-align: right;">Page 40</p> <p>1 be -- they had classifications that are unfounded,</p> <p>2 suspended, cleared. And that was usually cleared</p> <p>3 by arrest. And then there was another</p> <p>4 classification, an exceptional clearance. So we</p> <p>5 examined those on a random basis to see if they</p> <p>6 complied with the -- again, with the provisions of</p> <p>7 the definitions of the classifications.</p> <p>8 Q. So, for example, if you were doing an</p> <p>9 audit of a case that was cleared by arrest, you</p> <p>10 were looking to see, in fact, if there was an</p> <p>11 arrest report in the file?</p> <p>12 A. Well, not only an arrest report in the</p> <p>13 file but in those days detectives had to account</p> <p>14 for their cases for what was happening in court.</p> <p>15 So we would also be looking for those documents as</p> <p>16 to what's happening in court and what was the</p> <p>17 outcome.</p> <p>18 You know, there was an emphasis at that</p> <p>19 time in the Detective Division for case</p> <p>20 disposition, not case disposition within a</p> <p>21 department but case disposition over in the</p> <p>22 courthouse.</p> <p>23 So they had to report at the conclusion of</p> <p>24 the case what the disposition was because in those</p>
<p style="text-align: right;">Page 39</p> <p>1 Detective Division policy and orders -- and</p> <p>2 department policy and orders were being complied</p> <p>3 with.</p> <p>4 Q. So when you were doing the audits at the</p> <p>5 areas, were you looking at anything else besides</p> <p>6 the case management slips?</p> <p>7 MS. KEEN: Objection.</p> <p>8 BY MS. ITCHHAPORIA:</p> <p>9 Q. As far as documents?</p> <p>10 MS. KEEN: Form.</p> <p>11 Go ahead.</p> <p>12 THE WITNESS: Yes. We -- we pulled the files</p> <p>13 out, go through the files to see what was in there.</p> <p>14 Again, for compliance. You know, we wouldn't make</p> <p>15 any judgments on anything going on with the</p> <p>16 investigation other than determining whether or not</p> <p>17 there is compliance with the department directors</p> <p>18 governing those investigations.</p> <p>19 BY MS. ITCHHAPORIA:</p> <p>20 Q. So were you just looking at seeing if the</p> <p>21 reports were completed in a timely fashion?</p> <p>22 A. That's one dimension.</p> <p>23 Q. What else were you looking at?</p> <p>24 A. Terms of cases that were determined to</p>	<p style="text-align: right;">Page 41</p> <p>1 days detectives were evaluated every period. And</p> <p>2 by period I mean a 28-day block of time by which a</p> <p>3 department used for calendar purposes and for</p> <p>4 comparison purposes.</p> <p>5 So one of the things that detectives'</p> <p>6 performances would be looked at is are the</p> <p>7 detectives getting convictions in court.</p> <p>8 Q. And so you would look at the detective's</p> <p>9 report of a case disposition at court to determine</p> <p>10 if the case was, in fact, cleared by arrest?</p> <p>11 A. No. The case is classified within a</p> <p>12 department as cleared by arrest. The arrestee,</p> <p>13 assuming there is just one arrestee, has a case</p> <p>14 pending in court, it may be a year later, two years</p> <p>15 later, whatever, that that case is disposed of in</p> <p>16 court, the detective assigned to that case is</p> <p>17 responsible for reporting on the court disposition.</p> <p>18 Has nothing to do with being cleared by</p> <p>19 arrest. You know, that's already been identified.</p> <p>20 It's further down the line what's the disposition</p> <p>21 in court. You can, for example, clear a case by an</p> <p>22 arrest and then a pretrial motion to quash and</p> <p>23 suppress is sustained. The case is over with.</p> <p>24 It may be cleared by -- by us but then</p>

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<p style="text-align: right;">Page 42</p> <p>1 chief at the time wanted to know what the 2 detectives did or did not do correctly, incorrectly 3 that resulted in a motion to quash. That's why 4 they kept track of dispositions.</p> <p>5 Q. I guess I was confused because you said 6 you were examining the files at areas to see if 7 they complied with the department's classifications 8 of, like, cleared by arrest or suspended or 9 unfounded. So for cleared by arrest how were you 10 determining if the file had complied with that 11 classification?</p> <p>12 A. Well, it is shown as cleared by arrest and 13 there is an arrest report and there is a case 14 pending in the Circuit Court of Cook County, that's 15 all well and good. However, that case has to end 16 sometime in court. And the last bit of information 17 is what happened in court goes into the file.</p> <p>18 It's the same thing with they maintain 19 other things we look at. For example, at that time 20 the Illinois Department of Corrections would send 21 photographs along with notices of penitentiary 22 releases.</p> <p>23 Somebody got, let's just say, eight years 24 in a penitentiary for burglary and time off for</p>	<p style="text-align: right;">Page 44</p> <p>1 detective units at the time. And we'd go out -- 2 maybe once or twice a month we may go to Area 5 3 burglary one day in the month and do theirs. And 4 then we may go out to Area 2, Area 3 auto theft and 5 do theirs. So it was random selection to get this 6 done.</p> <p>7 Q. And it was just you and one other sergeant 8 that was responsible for those audits during the 9 time frame you were a sergeant?</p> <p>10 A. Yes, because we reported to the chief of 11 detectives.</p> <p>12 Q. You said that as a sergeant assigned to 13 the Detective Division headquarters that you would 14 also get involved or the chief of detectives in 15 major investigations?</p> <p>16 A. Yeah. There were certain things that he 17 would direct us to look into.</p> <p>18 Q. What -- what kind of things would he 19 direct you to look into?</p> <p>20 A. If he had a question about the integrity 21 of a particular investigation, especially if it was 22 an investigation that was -- or a crime was 23 committed that was news worthy, you know, he would 24 ask us to do specific things, you know, that -- for</p>
<p style="text-align: right;">Page 43</p> <p>1 good behavior, they are released at six years, the 2 police department would be notified with a 3 photograph and a disposition that here is a 4 penitentiary release.</p> <p>5 So they had to keep those in the areas 6 because the reason why they were sent to us is that 7 the inmate being released reports that this is 8 where he is going to live. So it's in Chicago.</p> <p>9 And then we would break it up -- not -- 10 when I say we, Detective Division headquarters 11 would break it up into areas. And that information 12 would go out to the areas and have to be 13 maintained. So those are some of the things we 14 checked.</p> <p>15 Q. During the two years that you were a 16 sergeant assigned to the Detective Division at 17 headquarters, how many audits were you involved in?</p> <p>18 A. If I told you five, ten, truthfully I 19 don't know.</p> <p>20 Q. Okay. How often -- during that time frame 21 how often were audits done?</p> <p>22 A. Well, we did audits. But keep in mind 23 that there were six areas at the time. And in each 24 area there were 5 units. So there were 30 outlying</p>	<p style="text-align: right;">Page 45</p> <p>1 me to tell you what specific things right now, I 2 can't tell you.</p> <p>3 But we sometimes would go out and talk to 4 people. We would talk to detectives that were on 5 the case. We would talk to the area supervisors on 6 the case, you know, to bring back information for 7 the chief.</p> <p>8 Q. When you were given such an assignment, 9 you weren't actually assigned to the underlying 10 investigation; is that right?</p> <p>11 A. Never.</p> <p>12 Q. And so a major investigation would be a 13 crime that was newsworthy?</p> <p>14 A. That's one, sure. And usually, you know, 15 big crimes, you know, for example -- again, I don't 16 remember the time frame, but there was -- there 17 was -- a Purolator burglary had taken place; okay? 18 It's a burglary. It was a large loss. But it's a 19 major crime.</p> <p>20 There were other crimes taking place that 21 do not necessarily involve murder or homicide but 22 are major crimes. And, for example, a property 23 crime would be determined by the amount of the 24 loss.</p>

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<p style="text-align: right;">Page 46</p> <p>1 So someone breaking into your garage and</p> <p>2 stealing your lawn mower would not be a major</p> <p>3 crime. Somebody breaking into a warehouse where</p> <p>4 100,000 and half a million dollars worth of drugs</p> <p>5 are stolen, it's a major crime. When I was</p> <p>6 superintendent, we had one out at the airport with</p> <p>7 Burlington Northern Transport. We had a major loss</p> <p>8 out there. I don't know how many hundreds of</p> <p>9 thousands of dollars. It's a major crime because</p> <p>10 of the size of the loss.</p> <p>11 Q. You were assigned as the sergeant to the</p> <p>12 Detective Division from March of 1970 until</p> <p>13 March of 1972; is that right?</p> <p>14 A. Yes.</p> <p>15 Q. And where did you go after March of 1972?</p> <p>16 A. Bureau of Inspectional Services.</p> <p>17 Q. And how long were you assigned to the</p> <p>18 Bureau of Inspectional Services?</p> <p>19 A. From March of '72 until February or</p> <p>20 March of '73.</p> <p>21 Q. When you were assigned to the Bureau of</p> <p>22 Inspectional Services, that was -- you were</p> <p>23 assigned as a sergeant?</p> <p>24 A. As a sergeant, yes.</p>	<p style="text-align: right;">Page 48</p> <p>1 THE WITNESS: Never having been a detective, I</p> <p>2 never was assigned as assistant detective.</p> <p>3 BY MS. ITCHHAPORIA:</p> <p>4 Q. What were your duties when you were a</p> <p>5 sergeant assigned to the Bureau of Inspectional</p> <p>6 Services?</p> <p>7 A. The primary function I had was to</p> <p>8 investigate the Internal Affairs Division.</p> <p>9 Q. And how would you go about doing that?</p> <p>10 A. How would I go about doing it?</p> <p>11 Q. Investigating Internal Affairs Division.</p> <p>12 A. Well, first of all, I would pull</p> <p>13 investigative files from the Internal Affairs</p> <p>14 Division. And I would read the file to determine</p> <p>15 the quality and the integrity, the authenticity and</p> <p>16 the integrity of the file.</p> <p>17 And when I would make a determination if</p> <p>18 questions were raised, I would call in the</p> <p>19 Internal Affairs investigator who is usually a</p> <p>20 sergeant and question that person about that</p> <p>21 particular file or a series of files because they</p> <p>22 were doing more than one investigation at a time.</p> <p>23 So I may pull all the files on a particular</p> <p>24 sergeant investigator in Internal Affairs.</p>
<p style="text-align: right;">Page 47</p> <p>1 Q. During the time that you were assigned as</p> <p>2 a sergeant going back to the Detective Division</p> <p>3 headquarters, during that time when you were</p> <p>4 assigned as a sergeant from the Detective Division</p> <p>5 headquarters, you never worked out of a detective</p> <p>6 area; correct?</p> <p>7 A. I never was assigned to any detective</p> <p>8 area. My assignment was to Detective Division</p> <p>9 headquarters.</p> <p>10 Q. And you never had direct experience as a</p> <p>11 working detective or supervisor of detectives in</p> <p>12 the field; is that correct?</p> <p>13 A. That's correct.</p> <p>14 MS. KEEN: Objection. Form.</p> <p>15 BY MS. ITCHHAPORIA:</p> <p>16 Q. Have you ever investigated a homicide as a</p> <p>17 lead detective?</p> <p>18 A. Based upon the statement that I just</p> <p>19 agreed to, never having been a detective I could</p> <p>20 not be a lead detective in any homicide.</p> <p>21 Q. I am sorry, I assume that you also never</p> <p>22 investigated a homicide as an assisting detective</p> <p>23 then?</p> <p>24 MS. KEEN: Just objection to the form of that.</p>	<p style="text-align: right;">Page 49</p> <p>1 And then based upon the information I got</p> <p>2 in that interview, I would then make</p> <p>3 recommendations to the deputy superintendent that</p> <p>4 cases should be reinvestigated. That's one</p> <p>5 recommendation.</p> <p>6 Another recommendation is that the</p> <p>7 sergeant investigator be transferred out of</p> <p>8 Internal Affairs.</p> <p>9 And the third recommendation would be that</p> <p>10 everything seemed to be okay with the</p> <p>11 investigations of the investigative files.</p> <p>12 Q. You said you would read files to determine</p> <p>13 the integrity and authenticity of the file. What</p> <p>14 file are you talking about?</p> <p>15 A. The Internal Affairs investigative file.</p> <p>16 Q. What would be in the Internal Affairs</p> <p>17 investigative file typically?</p> <p>18 A. Typically? There would be a complaint by</p> <p>19 either a citizen or a supervisor. There would be</p> <p>20 documents in there that would be supporting</p> <p>21 documents such as there would be copies of Case</p> <p>22 Reports, copies of lab reports, copies of polygraph</p> <p>23 examinations. Put it this way, copies of the</p> <p>24 results of polygraph examinations. Photographs,</p>

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<p style="text-align: right;">Page 50</p> <p>1 crime lab reports, statements -- written statements 2 that is. 3 And then there would be a final summary 4 report which would be really the -- not so much the 5 cover sheet but the first document after the cover 6 sheet. 7 Q. So would you be responsible for drafting 8 the file summary report? 9 A. No, no. I'm investigating the people who 10 drafted the final summary report. 11 Q. Got it. And in 1972 you became a 12 lieutenant; correct? 13 A. November 1st, yes. 14 Q. You -- you were doing -- you were 15 investigating Internal Affairs Division even as a 16 lieutenant? 17 A. I continued on because when I was promoted 18 lieutenant, I went to lieutenant school. And in 19 those days every promotion required that the new 20 promotees attend a pre-service school. So it is a 21 pre-service sergeant school, pre-service lieutenant 22 school, pre-service captain school. So I attended 23 pre-service lieutenant school. And then I was 24 assigned back to the deputy superintendent's</p>	<p style="text-align: right;">Page 52</p> <p>1 A. Well, despite the fact that they changed 2 titles and ranks, six years. 3 Q. What title changes did it go through? 4 A. Well, the person who I replaced was a 5 civilian sent back to the corporation counsel's 6 office. And they didn't have a slot in the 7 corporation counsel's office for the same pay rate 8 that he was getting at the police department; so 9 they kept him on the payroll at the police 10 department as aide and legal coordinator despite 11 the fact that he was working at the corporation 12 counsel's office. And they changed my title to 13 executive assistant to the superintendent. 14 Q. Did your duties change? 15 A. No. 16 Q. What were your duties as the aide and 17 legal coordinator for the superintendent? 18 A. Well, I had to -- I had to review all 19 department directives for correctness. And that 20 is -- when I say department directives, ones that 21 are being proposed. I had to review all the 22 sustained Internal Affairs investigations prior to 23 the superintendent affixing his signature for a 24 disposition whether that would be a reprimand, a</p>
<p style="text-align: right;">Page 51</p> <p>1 office. 2 Q. Where did you go after March of 1973? 3 A. I went to what was then called the Vice 4 Control Division which eventually became known as 5 the Organized Crime Division. And I was the 6 lieutenant in charge of the gambling section. 7 Q. And what were your duties as the 8 lieutenant of the gambling section? 9 A. I oversaw several sergeants and 40 10 detectives -- excuse me 38 detectives and 2 female 11 officers who were not detectives, plus 1 secretary. 12 And we were responsible for gambling enforcement 13 throughout the entire city. 14 Q. And how long did you do that for? 15 A. I did that until December 17th of 1973. 16 Q. And where did you go in December of 1973? 17 A. I was sent to the superintendent's office. 18 And I became at that time -- the title was aide to 19 the superintendent and legal coordinator. 20 Q. Was that a civil service position? 21 A. No. That's an exempt position. It is 22 appointed by the superintendent. 23 Q. And how long were you an aide to the 24 superintendent and legal coordinator?</p>	<p style="text-align: right;">Page 53</p> <p>1 suspension, or a separation. 2 I had to maintain documents and prepare a 3 monthly report on behalf of the superintendent to 4 the Chicago Police Board. I was giving legal 5 advice to the command personnel on an ad hoc basis 6 as they needed it. They would come down and talk 7 to me about problems. 8 I would advise the superintendent on legal 9 matters. I'd advise them on procedural and policy 10 matters. I generally would review all of the press 11 releases, not the routine ones but the press 12 releases addressing a specific issue for the 13 superintendent. 14 I had to oversee the staff in the 15 superintendent's office. I generally was included 16 in specialized training programs. These, for 17 example, would be conducted at the academy. And 18 they may send the entire department in for 19 in-service training in small groups at a time. So 20 I would have a fixed time every week to be at the 21 academy to do a presentation to that group that's 22 in there. 23 I had to represent the superintendent at 24 different meetings, functions. I had to -- I acted</p>

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<p style="text-align: right;">Page 54</p> <p>1 as liaison to the secretary of the police board, 2 worked with the hearing officers of the police 3 board at that time on the separation cases. 4 I sometimes did press conferences for the 5 superintendent. Occasionally -- I wouldn't say 6 every month but maybe six, eight times a year I 7 would have to take my turn relieving the assistant 8 deputy superintendent who may have been on vacation 9 or ill or what have you from field operations. So 10 that means that I was the person in charge of the 11 whole city on the street. 12 And the list is starting to go down the 13 funnel a little bit right now. So I can't think 14 of -- if I think of anything else that's important, 15 I will let you know. But -- 16 Q. Okay. You said that you would review 17 proposed department directives as the aide and 18 legal coordinator of the superintendent; correct? 19 A. Yeah, words "executive assistant." Forget 20 the titles. The job was the same for that six-year 21 period, yes. 22 Q. Would you make edits and revisions to 23 those proposed directives? 24 A. That was the purpose of it. And in some</p>	<p style="text-align: right;">Page 56</p> <p>1 Mayor Jane Bryne? 2 A. Yes. 3 Q. And then why did you resign in April of 4 1983 from that position? 5 A. Because the new mayor Harold Washington 6 came in and said he would fire me during -- he said 7 that during the campaign. And I said he doesn't 8 have to fire me. I will resign. 9 Q. So from 1964 to 1980 you have a total of 10 19 years of police experience? 11 A. Eighteen years and 47 weeks. 12 Q. So 18 years and 47 weeks of law 13 enforcement experience with the Chicago Police 14 Department, is that correct? 15 A. Yes. 16 Q. Have you ever worked for any other law 17 enforcement agency other than at the Chicago Police 18 Department? 19 A. No. 20 Q. So in your report when you say based on 21 your experience as a law enforcement officer, you 22 are talking about your experience from being a 23 patrol officer all the way to being a 24 superintendent; is that correct?</p>
<p style="text-align: right;">Page 55</p> <p>1 cases, for example, the -- the order on internal 2 discipline in the late '70s -- or middle '70s 3 anyway was 67-21 and had almost an infinite number 4 of amendments to it. So they couldn't get 5 everybody to agree on what should be the new order. 6 So I just took the project myself and 7 rewrote the whole order and got the thing done 8 because it was way past the shelf life of 9 five years. And orders expire automatically. So 10 there were a lot of those things going on. 11 But you also had the people from research 12 and development where they drafted those orders 13 coming and conferring with me as they were drafting 14 them so... 15 Q. And then after those six years you became 16 the superintendent of the Chicago Police 17 Department? 18 A. Yes. 19 Q. And you became the superintendent on 20 January 11th, 1980; is that correct? 21 A. Yes. 22 Q. And you did that until April 29th, 1983? 23 A. Yes. 24 Q. You were appointed superintendent by then</p>	<p style="text-align: right;">Page 57</p> <p>1 A. That's my entire experience, yes. 2 Q. When you were employed by the Chicago 3 Police Department, were you the subject of any 4 citizen complaints or complaint registers? 5 A. During the time of my employment? 6 Q. Yes. 7 A. Yes. Two. 8 Q. And what were those two? Do you remember? 9 A. One was -- one arose out of a traffic stop 10 where I issued a traffic citation to the driver and 11 he complained that I treated him rudely. And 12 another one was I stopped a car with four people in 13 it, four males, coming with no lights on and it 14 turned out to be four burglars and the four of them 15 said that I physically assaulted them. 16 Q. Do you remember what the disposition was 17 of those two CRs? 18 A. Yes. They were both determined as 19 exonerated which means that the actions on my part 20 was lawful and proper. 21 Q. Do you know if you were -- if any CRs were 22 initiated against you after you were no longer 23 employed by the Chicago Police Department? 24 A. Yes.</p>

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<p style="text-align: right;">Page 58</p> <p>1 MS. KEEN: Objection. Foundation.</p> <p>2 THE WITNESS: Yes.</p> <p>3 BY MS. ITCHHAPORIA:</p> <p>4 Q. How many CRs?</p> <p>5 A. I don't know.</p> <p>6 Q. Do you remember any CRs that were</p> <p>7 initiated against you after you stopped your</p> <p>8 employment at the Chicago Police Department?</p> <p>9 A. After I -- yeah. I think that there was</p> <p>10 one.</p> <p>11 Q. And what was that CR for?</p> <p>12 A. Nobody ever told me.</p> <p>13 Q. How do you know that there was one?</p> <p>14 A. Because there were people from Internal</p> <p>15 Affairs trying to contact my wife to come down and</p> <p>16 talk to the superintendent. And her response was</p> <p>17 the superintendent knows me personally. If he</p> <p>18 wants to talk to me, he can call me himself.</p> <p>19 Q. Were you ever interviewed as a result of</p> <p>20 that CR?</p> <p>21 A. No.</p> <p>22 Q. So you don't know what the outcome was?</p> <p>23 A. Of the CR?</p> <p>24 Q. Yeah.</p>	<p style="text-align: right;">Page 60</p> <p>1 There was a lawsuit filed and it was</p> <p>2 affirmed in our favor by the Seventh Circuit. I</p> <p>3 think the name of the case is McLean versus</p> <p>4 Rochford. And that's one example when I was a</p> <p>5 defendant in a case when I wasn't the</p> <p>6 superintendent.</p> <p>7 Q. And so it was -- it was -- was that</p> <p>8 lawsuit brought by that police officer that --</p> <p>9 A. McLean. Right.</p> <p>10 Q. -- refused to give his --</p> <p>11 A. Right.</p> <p>12 Q. -- statement?</p> <p>13 Have you been named in any lawsuits as a</p> <p>14 defendant since leaving your employment with</p> <p>15 Chicago Police Department?</p> <p>16 A. Are you talking about arising out of any</p> <p>17 action in the police department?</p> <p>18 Q. Right.</p> <p>19 A. Or -- no, not -- well, I can't say no</p> <p>20 because I would be getting papers served on me</p> <p>21 for years regarding Civil Rights allegations. But</p> <p>22 my recollection is I am saying as a defendant</p> <p>23 because I was the superintendent at the time.</p> <p>24 Q. Did you ever have to testify in any of</p>
<p style="text-align: right;">Page 59</p> <p>1 A. I neither know the outcome, or I could</p> <p>2 care less what the outcome is.</p> <p>3 Q. When you were with -- employed by the</p> <p>4 Chicago Police Department, were you a defendant in</p> <p>5 any civil suit arising from your performance other</p> <p>6 than as a superintendent?</p> <p>7 A. Other than as a superintendent? Yes. I</p> <p>8 remember one case -- we talked about before in my</p> <p>9 role as giving legal advice. There was an</p> <p>10 investigation of a couple of police officers up</p> <p>11 north maybe in the 20th district at the time</p> <p>12 regarding their committing a sexual assault.</p> <p>13 And they were brought in for a</p> <p>14 statement -- one of them was brought in for a</p> <p>15 statement. And he refused to answer the questions.</p> <p>16 So I was approached then, and what we did is we had</p> <p>17 a command officer identify himself to the officer,</p> <p>18 who he was and his rank, and gave him an order to</p> <p>19 answer the questions.</p> <p>20 And the officer continued to refuse to</p> <p>21 answer the questions. So we immediately drafted a</p> <p>22 suspension order, had the then superintendent sign</p> <p>23 it and he was suspended pending separation for</p> <p>24 refusing to obey a direct order.</p>	<p style="text-align: right;">Page 61</p> <p>1 those cases?</p> <p>2 A. I don't know. I know I testified in cases</p> <p>3 after I left the police department. But I'm not</p> <p>4 sure if the cause of action arose when I was still</p> <p>5 in the police department or if it was filed after I</p> <p>6 left. I don't know.</p> <p>7 Q. Other than that McLean case though, can</p> <p>8 you think of any other cases where you were named</p> <p>9 as a defendant in a civil suit arising from your</p> <p>10 performance of duties other than as a</p> <p>11 superintendent?</p> <p>12 A. I cannot think of any right now.</p> <p>13 Q. So according to your CV after you resigned</p> <p>14 from the Chicago Police Department, you joined a</p> <p>15 law firm Levy & Erens?</p> <p>16 A. That's correct.</p> <p>17 Q. And you worked there for two years?</p> <p>18 A. Yes.</p> <p>19 Q. And did you work there for two years as a</p> <p>20 partner?</p> <p>21 A. Yes.</p> <p>22 Q. And the firm Levy & Erens concentrated</p> <p>23 their practice in bankruptcy and real estate law;</p> <p>24 is that right?</p>

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<p style="text-align: right;">Page 62</p> <p>1 A. Primarily, yes.</p> <p>2 Q. And when you were a partner at that firm,</p> <p>3 was there a criminal investigation that was</p> <p>4 conducted by the Cook County state's attorney</p> <p>5 regarding your handling of Chicago Police</p> <p>6 Department funds and financing during the time that</p> <p>7 you were superintendent?</p> <p>8 A. I think that that investigation that you</p> <p>9 are referring to was started with the</p> <p>10 Internal Affairs investigation to which you</p> <p>11 previously referenced. And I think that that</p> <p>12 was -- that was started in 1984.</p> <p>13 Q. The investigation was started in 1984?</p> <p>14 A. That's my best recollection. The</p> <p>15 investigation at the police department started in</p> <p>16 1984. I have no idea when the state's attorney's</p> <p>17 office started the investigation.</p> <p>18 Q. Were you indicted in that case?</p> <p>19 A. I'm sorry?</p> <p>20 Q. Were you indicted?</p> <p>21 A. Yes.</p> <p>22 Q. Do you remember what year you were</p> <p>23 indicted?</p> <p>24 A. 1986, March.</p>	<p style="text-align: right;">Page 64</p> <p>1 area that we touched before, you said you had gone</p> <p>2 to lieutenant school, when you -- pre-lieutenant</p> <p>3 school before you became --</p> <p>4 A. Pre-service lieutenant school.</p> <p>5 Q. Pre-service lieutenant school. How long</p> <p>6 was lieutenant school for?</p> <p>7 A. I think it may have been two weeks. What</p> <p>8 I remember sergeants was three weeks. Let's see</p> <p>9 now. Back up. Detective school was four weeks,</p> <p>10 sergeants three, lieutenants two, captains one.</p> <p>11 Q. Sergeant straight detective school was</p> <p>12 four weeks?</p> <p>13 A. Yep.</p> <p>14 Q. Okay.</p> <p>15 A. When someone was promoted to detective,</p> <p>16 they went to detective school for four weeks.</p> <p>17 Q. Okay.</p> <p>18 A. Someone promoted as sergeant, the whole</p> <p>19 group would go pre-service sergeant school. Give</p> <p>20 you instruction on what's expected of you as a</p> <p>21 sergeant. Go to lieutenant -- you would get</p> <p>22 promoted to lieutenant, two weeks, and --</p> <p>23 lieutenant school, captain one week.</p> <p>24 Q. So you attended the two-week pre-service</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. And what happened to that case, that</p> <p>2 criminal case where you were indicted?</p> <p>3 A. Public record. I was acquitted on all</p> <p>4 charges.</p> <p>5 Q. What were the charges?</p> <p>6 A. There were 23 counts that they massaged in</p> <p>7 this indictment. I think that they said I stole</p> <p>8 12 -- or misappropriated twelve hundred and some</p> <p>9 dollars.</p> <p>10 Q. And then in 1985 after leaving from</p> <p>11 Levy & Erens you started your own firm</p> <p>12 Richard J. Brzeczek Limited?</p> <p>13 A. Yes.</p> <p>14 MS. KEEN: Misha, when you get to good point, I</p> <p>15 have to use the restroom.</p> <p>16 MS. ITCHHAPORIA: Sure. Let's take a break.</p> <p>17 Off the record.</p> <p>18 THE VIDEOGRAPHER: We are going off the video</p> <p>19 record at 11:26 a.m.</p> <p>20 (Recess taken.)</p> <p>21 THE VIDEOGRAPHER: We are going back on the</p> <p>22 video record at 11:38 a.m.</p> <p>23 BY MS. ITCHHAPORIA:</p> <p>24 Q. And just to circle back with you to an</p>	<p style="text-align: right;">Page 65</p> <p>1 lieutenant school. Did you also attend the</p> <p>2 pre-service sergeant school?</p> <p>3 A. Yes, I did.</p> <p>4 Q. And did you attend the four weeks</p> <p>5 pre-service detective school?</p> <p>6 A. Never.</p> <p>7 Q. Did you say that you did attend</p> <p>8 pre-service detective school for four weeks?</p> <p>9 A. I said never.</p> <p>10 Q. So your law firm Richard J. Brzeczek was</p> <p>11 in business from 1985 to 2016; is that correct?</p> <p>12 A. That's correct. Actually the office was</p> <p>13 shut down in '15. I had some cases hanging over.</p> <p>14 After I shut the office down, I had to clean up.</p> <p>15 And then I made it official June 30th of '16</p> <p>16 because that's when I retired my license.</p> <p>17 The cases were done already, but I just</p> <p>18 waited until the end of the period and retired.</p> <p>19 Q. Is your license to practice law no longer</p> <p>20 active then in Illinois?</p> <p>21 A. It is retired. That's correct. If you</p> <p>22 look up on the ARDC website, it will show retired.</p> <p>23 Q. When you were in private practice from</p> <p>24 1985 to 2016, what areas of law did you concentrate</p>

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<p style="text-align: right;">Page 66</p> <p>1 your practice in?</p> <p>2 A. Primarily criminal defense. But at the</p> <p>3 beginning, as I mentioned earlier, with the ARDC</p> <p>4 complaints I did everything at first to try to</p> <p>5 build up the practice.</p> <p>6 Q. Including domestic type relation cases?</p> <p>7 A. Yes, domestic relations, small claims,</p> <p>8 real estate, drafting wills.</p> <p>9 Q. Your practice of law has also included</p> <p>10 both criminal and civil cases; right?</p> <p>11 A. Yes. Yes.</p> <p>12 Q. And have you filed Civil Rights cases on</p> <p>13 behalf of plaintiffs?</p> <p>14 A. Yes.</p> <p>15 Q. And as --</p> <p>16 A. Including plaintiff police officers.</p> <p>17 Q. As an attorney have you brought lawsuits</p> <p>18 against the City of Chicago and the Chicago police</p> <p>19 officers in Civil Rights cases?</p> <p>20 A. Yes.</p> <p>21 Q. How many such cases?</p> <p>22 A. I don't know.</p> <p>23 Q. Would you say that you filed more than ten</p> <p>24 such civil rights cases against the City of Chicago</p>	<p style="text-align: right;">Page 68</p> <p>1 administration can do and what police officers'</p> <p>2 rights were and internal investigations.</p> <p>3 Q. What positions did you hold at University</p> <p>4 of Louisville School of Justice?</p> <p>5 A. Position?</p> <p>6 Q. Yeah.</p> <p>7 A. I was -- there was no position. I mean if</p> <p>8 you want to use academic terms, I was like the</p> <p>9 bottom of the totem pole, like a visiting adjunct</p> <p>10 lecturer maybe, if that's any kind of a title.</p> <p>11 What they would do is this was a week-long</p> <p>12 seminar. And at times they had maybe even more</p> <p>13 than five instructors for the week.</p> <p>14 And then as I recall they worked it down</p> <p>15 to two of us. One instructor had policies and</p> <p>16 procedures for three days, and I had the law for</p> <p>17 two days.</p> <p>18 Q. Have you ever published any articles or</p> <p>19 journals on police work or police procedure?</p> <p>20 A. There are two articles published in the</p> <p>21 early '80s in the FBI enforcement bulletin. One</p> <p>22 was on police officer suicides. And the other one</p> <p>23 was on the establishment of a community assessment</p> <p>24 center and I know that in one of the editions of</p>
<p style="text-align: right;">Page 67</p> <p>1 and Chicago police officers?</p> <p>2 MS. KEEN: Just objection. Form. You mean in</p> <p>3 his capacity as an attorney?</p> <p>4 MS. ITCHHAPORIA: Correct.</p> <p>5 THE WITNESS: I could say yes to more than 10,</p> <p>6 but I doubt if it is more than 20. So I think it</p> <p>7 is more than 10 but less than 20.</p> <p>8 BY MS. ITCHHAPORIA:</p> <p>9 Q. Of the more than 10 cases, less than 20,</p> <p>10 how many have gone to trial?</p> <p>11 A. I don't know.</p> <p>12 Q. You have -- your CV notes that you have</p> <p>13 some teaching experience at the University of</p> <p>14 Louisville School of Justice?</p> <p>15 A. Yes.</p> <p>16 Q. And you did that from 1977 to 2006?</p> <p>17 A. Yes.</p> <p>18 Q. What did you teach there?</p> <p>19 A. I taught the law regarding internal --</p> <p>20 internal investigative procedures.</p> <p>21 Q. Did you teach anything else there?</p> <p>22 A. I did a little bit of -- a little bit of</p> <p>23 leadership, but that was just a few times. Mostly</p> <p>24 what I did was the body of law regarding what the</p>	<p style="text-align: right;">Page 69</p> <p>1 the book on Police Administration, which was</p> <p>2 originally written by O.W. Wilson and subsequent</p> <p>3 later different people who have been charged with</p> <p>4 the responsibility of updating it. I haven't seen</p> <p>5 it in years, but there were two or three parts in</p> <p>6 that book that they referenced my writings.</p> <p>7 And then there was another thing I did. I</p> <p>8 can't think of the publication. Something like</p> <p>9 police executives. But I did a chapter in that</p> <p>10 book on the relationship between the police chief</p> <p>11 and the mayor.</p> <p>12 Q. Have you ever published anything else</p> <p>13 besides those three chapters or articles?</p> <p>14 A. Actually saying -- well, there is three</p> <p>15 published, right. And then the police</p> <p>16 administration book took from what -- from what I</p> <p>17 published about the relationship with the mayor and</p> <p>18 from that publication. That would be it.</p> <p>19 Q. And according to your curriculum vitae you</p> <p>20 have also been the president of a firm called</p> <p>21 Consultants on Police Science, Inc.; is that</p> <p>22 correct?</p> <p>23 A. That's correct.</p> <p>24 Q. And you are the president and owner of</p>

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<p style="text-align: right;">Page 70</p> <p>1 that firm?</p> <p>2 A. Yes.</p> <p>3 Q. And that Consultants on Police</p> <p>4 Services, Inc., is still currently in business?</p> <p>5 A. It is actually Consultants on Police</p> <p>6 Science.</p> <p>7 Q. Police science. Sorry. And it is still</p> <p>8 in business?</p> <p>9 A. Yes.</p> <p>10 Q. And what kind of services do you provide</p> <p>11 for that firm?</p> <p>12 A. I established this firm when I was</p> <p>13 practicing law to keep my expert witness and</p> <p>14 teaching and consulting business separate. And so</p> <p>15 I can't even remember right now when -- the exact</p> <p>16 year. 1998 is when I established it. It is an</p> <p>17 Illinois corporation. It's now a Florida</p> <p>18 corporation.</p> <p>19 Q. Do you provide services to attorneys that</p> <p>20 are involved in litigation as an expert?</p> <p>21 A. Yes. That's one of the things.</p> <p>22 Q. Does Consultants on Police Science, Inc.,</p> <p>23 employ anybody else besides yourself?</p> <p>24 A. No.</p>	<p style="text-align: right;">Page 72</p> <p>1 Louisville was a long time because we had that</p> <p>2 seminar going on for a long time.</p> <p>3 But I think it was 2012 that I was invited</p> <p>4 to come and give a presentation up in Portland,</p> <p>5 Oregon, by the sheriff's office there. So -- but I</p> <p>6 don't do very much of that anymore.</p> <p>7 Q. What percentage of your expert witness</p> <p>8 work focuses on criminal matters versus civil?</p> <p>9 A. I would have to think that through a</p> <p>10 little bit because the last two that I did before</p> <p>11 this instant one were both civil matters.</p> <p>12 Now, I'm -- what I am trying to</p> <p>13 understand -- excuse me. Maybe I answered</p> <p>14 erroneously. Are you saying that the substance of</p> <p>15 the litigation involves a criminal issue? Or are</p> <p>16 you saying it's a criminal case?</p> <p>17 Q. Criminal case versus civil case.</p> <p>18 A. I have only testified in a criminal case</p> <p>19 once as an expert witness.</p> <p>20 Q. So the rest of the cases where you have</p> <p>21 been involved as an expert witness have all been</p> <p>22 civil cases?</p> <p>23 A. That's correct.</p> <p>24 Q. And of those civil cases how many have</p>
<p style="text-align: right;">Page 71</p> <p>1 Q. You said that's one -- providing expert</p> <p>2 services is one component. What's the other</p> <p>3 component?</p> <p>4 A. As I said, teaching. One of the reasons</p> <p>5 why I included teaching in there is because I think</p> <p>6 it was around 1998 there was a change in the</p> <p>7 Internal Revenue Code. Prior to that time if I</p> <p>8 taught, they would issue me the check for the</p> <p>9 honorarium, you know, in my name for the total</p> <p>10 amount. And then I think the Internal Revenue</p> <p>11 Service code -- or Internal Revenue Code was</p> <p>12 amended that if they did that, they had to take out</p> <p>13 withholding.</p> <p>14 Or in the alternative, if you had say a</p> <p>15 corporation, limited liability corporation,</p> <p>16 something like that, another type of entity other</p> <p>17 than yourself, they could then issue the check in</p> <p>18 its entirety and then you would be responsible for</p> <p>19 the payment of the taxes. So that's what I --</p> <p>20 had -- the teaching honoraria went in there also.</p> <p>21 Q. Okay. Have you held any teaching</p> <p>22 positions since 2006?</p> <p>23 A. I haven't held any teaching positions</p> <p>24 anytime. These are all invitation. University of</p>	<p style="text-align: right;">Page 73</p> <p>1 been for plaintiff versus defendant?</p> <p>2 A. They are all plaintiff.</p> <p>3 Q. How many times have you been retained and</p> <p>4 testified as an expert witness against the Chicago</p> <p>5 Police Department for any of its officers?</p> <p>6 A. Can I look at the document I submitted in</p> <p>7 my past testimony?</p> <p>8 Q. Oh, your testimony list? Sure. I will</p> <p>9 pull it out.</p> <p>10 (Whereupon, Brzeczek</p> <p>11 Deposition Exhibit No. 2 was</p> <p>12 marked for identification.)</p> <p>13 BY MS. ITCHHAPORIA:</p> <p>14 Q. The court reporter has handed to you what</p> <p>15 has been marked as Exhibit 2 which is your expert</p> <p>16 witness testimony list since 2006. And it was</p> <p>17 current as of June 12, 2018; is that correct?</p> <p>18 A. That is correct.</p> <p>19 Q. Are there any updates to this list?</p> <p>20 A. No.</p> <p>21 Q. Okay.</p> <p>22 A. No. Other than the instant case.</p> <p>23 Q. This case?</p> <p>24 A. Right.</p>

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<p style="text-align: right;">Page 74</p> <p>1 Q. Okay.</p> <p>2 A. Looking at this, when I told you my</p> <p>3 testimony as an expert witness in a criminal case</p> <p>4 was limited to one case, I see there is another one</p> <p>5 listed here. People versus Tyrone Hood, the second</p> <p>6 from the bottom on the first page. It has a</p> <p>7 criminal docket number.</p> <p>8 Q. Okay.</p> <p>9 A. I'm not sure if it was a post-conviction</p> <p>10 proceeding or what. But what I did there is I</p> <p>11 reviewed some materials and submitted an</p> <p>12 affidavit --</p> <p>13 Q. Right.</p> <p>14 A. -- in connection with that. I didn't</p> <p>15 actually physically testify.</p> <p>16 Q. Well, looking at this list --</p> <p>17 A. Okay.</p> <p>18 Q. -- how many of these -- how many cases are</p> <p>19 civil cases where you were retained for your expert</p> <p>20 services against the Chicago Police Department or</p> <p>21 its officers?</p> <p>22 MS. KEEN: Objection. Form.</p> <p>23 THE WITNESS: Okay, going down the list,</p> <p>24 Craftt versus Flagg involved Chicago police</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. What about Hill versus City of Chicago, do</p> <p>2 you remember which plaintiff's firm retained you?</p> <p>3 MS. KEEN: Objection. Calls for speculation.</p> <p>4 THE WITNESS: I'm sorry, I didn't hear the last</p> <p>5 part of your question.</p> <p>6 BY MS. ITCHHAPORIA:</p> <p>7 Q. Do you remember in Hill versus</p> <p>8 City of Chicago which plaintiff's firm retained</p> <p>9 you?</p> <p>10 A. That was Loevy. I remember that one. Now</p> <p>11 I do.</p> <p>12 Q. What about the case of Pendleton versus</p> <p>13 Stewart, do you remember which plaintiff's firm</p> <p>14 retained you?</p> <p>15 A. If you can tell me more about the case,</p> <p>16 maybe I can remember.</p> <p>17 Q. Do you remember --</p> <p>18 A. I don't -- independently I just do not</p> <p>19 remember. You know, I know it was settled in</p> <p>20 January 2016, but I just don't remember.</p> <p>21 Q. What about Romito versus City of Chicago,</p> <p>22 do you remember what firm retained you in that</p> <p>23 case?</p> <p>24 A. Yeah. John Malloy & Associates.</p>
<p style="text-align: right;">Page 75</p> <p>1 officers, Hill versus the City of Chicago. I don't</p> <p>2 know about Wilson versus O'Brien, but I didn't</p> <p>3 testify in that. So that wouldn't apply. I just</p> <p>4 reviewed the case. Teslow versus City of Chicago,</p> <p>5 Salgado versus City of Chicago, Castillo versus</p> <p>6 City of Chicago, Hernandez on Page 2 and Romito on</p> <p>7 page 2. I don't know -- I don't have any</p> <p>8 recollection right now on Pendleton versus Stewart.</p> <p>9 BY MS. ITCHHAPORIA:</p> <p>10 Q. That's seven cases; right?</p> <p>11 A. Yes.</p> <p>12 Q. And looking at this list since 2006, can</p> <p>13 you tell me how many times you have been retained</p> <p>14 as an expert witness by the firm of Loevy & Loevy?</p> <p>15 A. Dominguez is one. I think that criminal</p> <p>16 case Tyrone Hood involved Loevy & Loevy. Hernandez</p> <p>17 on page 2 involved Loevy & Loevy where they</p> <p>18 represented a police officer in a whistleblower</p> <p>19 case. I'm not sure. It could be Salgado and/or</p> <p>20 Castillo. I just don't remember because I had a</p> <p>21 series of cases also with the O'Connor Law Group.</p> <p>22 Like Teslow versus City of Chicago is the O'Connor</p> <p>23 Law Group. But I know I had a couple others, but I</p> <p>24 don't remember their names tying them.</p>	<p style="text-align: right;">Page 77</p> <p>1 Q. Have you ever testified in a civil case</p> <p>2 that's gone to trial as an expert witness?</p> <p>3 A. Yes.</p> <p>4 Q. Which case?</p> <p>5 A. Let's go backwards. Hernandez versus</p> <p>6 City of Chicago, I testified at trial at that case.</p> <p>7 But that case resulted in -- I'm not sure what the</p> <p>8 exact wording would be, but it would be like a</p> <p>9 mistrial because one of the jurors was determined</p> <p>10 not to be able to understand English. So there was</p> <p>11 no retrial. The case was settled subsequently.</p> <p>12 But I did testify at trial there.</p> <p>13 I testified in the Daubert hearing on Hill</p> <p>14 versus City of Chicago. And after that hearing</p> <p>15 that case was settled.</p> <p>16 I testified at trial on the People versus</p> <p>17 Sladjana Vukovic criminal case.</p> <p>18 Q. That was a criminal case though; right?</p> <p>19 A. Right. Right. But I did testify at</p> <p>20 trial.</p> <p>21 Q. Okay.</p> <p>22 A. I think that was a jury.</p> <p>23 Q. But civil case you have got the Daubert</p> <p>24 hearing in Hill, and then you have got the</p>

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<p style="text-align: right;">Page 78</p> <p>1 testimony that you provided before the mistrial but</p> <p>2 before a jury in Hernandez; correct?</p> <p>3 A. That's correct. I think the footnotes for</p> <p>4 each one of those I put in here I think -- oh, the</p> <p>5 first one, Dominguez versus Hendley, I just saw</p> <p>6 that now.</p> <p>7 Q. Okay.</p> <p>8 A. Yeah, that did go to trial in federal</p> <p>9 court. That was a Waukegan case.</p> <p>10 Q. Have you ever been barred from testifying</p> <p>11 by any state or federal court as an expert witness?</p> <p>12 A. No.</p> <p>13 MS. KEEN: Objection. Foundation.</p> <p>14 BY MS. ITCHHAPORIA:</p> <p>15 Q. Has any portion of your expert opinion</p> <p>16 ever been barred by any federal or state court?</p> <p>17 MS. KEEN: Objection. Foundation.</p> <p>18 THE WITNESS: Not that I know of.</p> <p>19 BY MS. ITCHHAPORIA:</p> <p>20 Q. Do you currently derive any income from</p> <p>21 any other sources other than serving as an expert</p> <p>22 witness?</p> <p>23 A. Social security.</p> <p>24 Q. That's it?</p>	<p style="text-align: right;">Page 80</p> <p>1 mind.</p> <p>2 Q. Is it your plan to submit an invoice after</p> <p>3 your deposition today?</p> <p>4 A. After -- yeah, after this is completed I</p> <p>5 plan on submitting an invoice, sure.</p> <p>6 MS. ITCHHAPORIA: Can you mark that, please.</p> <p>7 (Whereupon, Brzeczek</p> <p>8 Deposition Exhibit No. 3 was</p> <p>9 marked for identification.)</p> <p>10 MS. KEEN: Is this testimony list</p> <p>11 Exhibit No. 2?</p> <p>12 MS. ITCHHAPORIA: Yes.</p> <p>13 BY MS. ITCHHAPORIA:</p> <p>14 Q. Mr. Brzeczek, the court reporter has</p> <p>15 handed to you what has been marked as Exhibit 3 to</p> <p>16 your deposition, please. Can you identify</p> <p>17 Exhibit 3 for the record.</p> <p>18 A. Okay, this is the report that I submitted</p> <p>19 subsequent to my review of the documents that</p> <p>20 plaintiff's attorneys provided to me and asked me</p> <p>21 to give an opinion on the -- generically as to the</p> <p>22 reporting -- give an opinion on the reporting that</p> <p>23 took place in this case.</p> <p>24 Q. And your report consists of seven pages;</p>
<p style="text-align: right;">Page 79</p> <p>1 A. My portfolio.</p> <p>2 Q. In 2017 what percentage of your income was</p> <p>3 derived from the services that you provided as an</p> <p>4 expert witness from your consultant firm?</p> <p>5 MS. KEEN: Objection. Foundation.</p> <p>6 THE WITNESS: What percentage? I can't answer</p> <p>7 that question because I really don't know the exact</p> <p>8 numbers for my total income nor my expert witness</p> <p>9 income.</p> <p>10 BY MS. ITCHHAPORIA:</p> <p>11 Q. And for your expert services in this case,</p> <p>12 what was -- what's your hourly rate for reviewing</p> <p>13 documents?</p> <p>14 A. \$500 an hour.</p> <p>15 Q. Was that the same for writing reports?</p> <p>16 A. Same for everything. That's what I have</p> <p>17 charged since 2006.</p> <p>18 Q. Have you submitted any invoices for the</p> <p>19 work that you have done in this case?</p> <p>20 A. No.</p> <p>21 Q. Do you know how many hours total prior to</p> <p>22 your deposition today that you put in on this case?</p> <p>23 A. I am guessing 15, 20 hours maybe. It's --</p> <p>24 I just -- real quickly trying to run through my</p>	<p style="text-align: right;">Page 81</p> <p>1 is that correct?</p> <p>2 A. Yes.</p> <p>3 Q. And that's your signature on the last</p> <p>4 page?</p> <p>5 A. Yes.</p> <p>6 Q. Since you prepared your report, has any</p> <p>7 more information been made available to you by way</p> <p>8 of documents or depositions?</p> <p>9 A. No.</p> <p>10 Q. And other than the error that you pointed</p> <p>11 out on page 2 where you said -- it said Trunko but</p> <p>12 it's supposed to say LaGace, are there any other</p> <p>13 errors or mistakes that you see in this report?</p> <p>14 A. The -- toward the back of the report I</p> <p>15 think that Microsoft Word on my Mac decided it was</p> <p>16 going to become boss and it renumbered some of the</p> <p>17 paragraphs without my being aware of it.</p> <p>18 So I apologize for that because when I</p> <p>19 submitted the report, you know, I know what I put</p> <p>20 up on the screen, but apparently the automatic</p> <p>21 indentation and numbering of paragraphs, it did its</p> <p>22 own thing.</p> <p>23 So somewhere in here you got a couple of</p> <p>24 7s and 8s I think that should be --</p>

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<p style="text-align: right;">Page 82</p> <p>1 Q. And if you look on page 3, paragraph 7 --</p> <p>2 A. There you are. That's it.</p> <p>3 Q. And it should be paragraph 9?</p> <p>4 A. Yeah. I think that what we want to do is</p> <p>5 after page 2, No. 8, then make the next one 9, 10,</p> <p>6 and 11.</p> <p>7 Q. Okay.</p> <p>8 A. That's -- I know how to count, but I am</p> <p>9 just saying that that's what happened.</p> <p>10 Q. Any other typographical errors or</p> <p>11 inaccuracies that you noticed in the report?</p> <p>12 A. I thought that I may have seen one or two</p> <p>13 typos in there. I just don't remember where. But</p> <p>14 I can tell you that they don't -- those typos don't</p> <p>15 affect the substance of the report.</p> <p>16 You know, like the Trunko versus LaGace, I</p> <p>17 was just using the wrong name.</p> <p>18 Q. And that Trunko versus LaGace typo is in</p> <p>19 paragraph A on page 2; right?</p> <p>20 A. That's correct. It's one, two, three,</p> <p>21 four, five -- six lines down the last word in the</p> <p>22 sixth line on the right -- in the right margin</p> <p>23 there.</p> <p>24 Q. Okay. And if you recall as we are going</p>	<p style="text-align: right;">Page 84</p> <p>1 Q. Oh, okay. Okay. So it should say I</p> <p>2 reviewed the following documents -- no, I received</p> <p>3 the following documents -- what should it say?</p> <p>4 A. I reviewed the following documents</p> <p>5 received by the undersigned.</p> <p>6 Q. And it lists the documents that you</p> <p>7 reviewed; is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. And then you got under that list of</p> <p>10 documents that you reviewed, you got a heading</p> <p>11 that's underlined Facts, right?</p> <p>12 A. Yes.</p> <p>13 Q. And then that's paragraphs 1 through what</p> <p>14 we are now going to call 11 that are under the</p> <p>15 Facts section?</p> <p>16 A. Yes.</p> <p>17 Q. And then after paragraph 11 you have got a</p> <p>18 bold heading Opinion. And then there is Opinion 1</p> <p>19 through 5 -- what is that -- 5A through J?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. So just -- do any of the -- under</p> <p>22 the Facts section, paragraphs 1 through 11, do any</p> <p>23 of those paragraphs contain your expert opinions?</p> <p>24 MS. KEEN: Objection. Form and foundation.</p>
<p style="text-align: right;">Page 83</p> <p>1 through the report any other typos, if you can just</p> <p>2 point them out.</p> <p>3 A. Sure. Okay. Thank you.</p> <p>4 Q. Is there anything else in the report other</p> <p>5 than the numbering and that one typo that you would</p> <p>6 want to change?</p> <p>7 A. No, not at this time unless I see</p> <p>8 something as we are going through it.</p> <p>9 Q. Does your report contain all the opinions</p> <p>10 that you intend to testify about at trial?</p> <p>11 A. Yes.</p> <p>12 Q. Do you intend to supplement your report in</p> <p>13 any way?</p> <p>14 MS. KEEN: Objection. Form and foundation.</p> <p>15 THE WITNESS: I do not intend to supplement the</p> <p>16 report based upon the assignment given to me. And</p> <p>17 I have no other reason to -- no reason to</p> <p>18 supplement the report at this time.</p> <p>19 BY MS. ITCHHAPORIA:</p> <p>20 Q. So on page 1 of your report there at the</p> <p>21 top you state I have reviewed the following</p> <p>22 documents reviewed by the undersigned. And</p> <p>23 then --</p> <p>24 A. Okay, that should be received.</p>	<p style="text-align: right;">Page 85</p> <p>1 And it is compound to the extent you are asking</p> <p>2 about all of the numbers.</p> <p>3 THE WITNESS: I think that the only place that</p> <p>4 I can say that an opinion may be somewhat apparent</p> <p>5 is in paragraph 11 where I said that thereafter</p> <p>6 detectives obtained the statement from Andersen</p> <p>7 that describes a somewhat complex and convoluted</p> <p>8 plot that he contrived to kill Trunko. And I think</p> <p>9 that you can regard my descriptive terms as a</p> <p>10 somewhat complex and convoluted plot as an opinion</p> <p>11 because that's the way I am seeing it. Other</p> <p>12 people may not see it as a complex and convoluted</p> <p>13 plot, but I did.</p> <p>14 BY MS. ITCHHAPORIA:</p> <p>15 Q. And then under the Opinion, section 1</p> <p>16 through paragraphs 5A through J, do those</p> <p>17 paragraphs contain all the expert opinions that you</p> <p>18 are going to be rendering in this case?</p> <p>19 MS. KEEN: I am just going to object to form.</p> <p>20 Calls for a legal conclusion and foundation.</p> <p>21 THE WITNESS: Okay. You are asking me to look</p> <p>22 at 5A and thereafter?</p> <p>23 BY MS. ITCHHAPORIA:</p> <p>24 Q. Sorry?</p>

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<p style="text-align: right;">Page 86</p> <p>1 A. You are asking me to look at 5A and the</p> <p>2 paragraphs thereafter?</p> <p>3 Q. Oh, I am asking you to look at page 3</p> <p>4 where it says the heading Opinions, in</p> <p>5 paragraphs 1, 5 -- through 5J.</p> <p>6 A. Okay, one --</p> <p>7 MS. KEEN: Same objections.</p> <p>8 THE WITNESS: Yeah, those are -- as I look at</p> <p>9 them, those are the opinions.</p> <p>10 BY MS. ITCHHAPORIA:</p> <p>11 Q. And this is the report that you drafted;</p> <p>12 correct?</p> <p>13 A. Yes.</p> <p>14 Q. And you organized your report in this</p> <p>15 format; correct?</p> <p>16 A. Yes.</p> <p>17 MS. KEEN: I am just going to object to the</p> <p>18 extent that calls for any sort of work --</p> <p>19 disclosure of work product of privileged</p> <p>20 communication.</p> <p>21 BY MS. ITCHHAPORIA:</p> <p>22 Q. Does the list on -- of documents that you</p> <p>23 reviewed on page 1, does that contain the total sum</p> <p>24 of all the documents that you reviewed in order to</p>	<p style="text-align: right;">Page 88</p> <p>1 number other than Case and Supplementary Reports</p> <p>2 and Court Attendance Reports?</p> <p>3 MS. KEEN: I am just going to object to form</p> <p>4 and foundation.</p> <p>5 THE WITNESS: No. When I went through it,</p> <p>6 that's all I recall seeing is the original</p> <p>7 Case Report and then Supplementary Reports and the</p> <p>8 Court Attendance Reports. I just don't recall</p> <p>9 right now if there was anything else in that</p> <p>10 grouping of papers, documents that would come</p> <p>11 within the definition of being the investigative</p> <p>12 file. These would be definitely part of the</p> <p>13 investigative file, but I think that that's all</p> <p>14 I -- all I looked at.</p> <p>15 BY MS. ITCHHAPORIA:</p> <p>16 Q. Well, putting aside the term</p> <p>17 "investigative file," do you remember looking at</p> <p>18 any other police reports other than Case and</p> <p>19 Supplementary Reports and Court Attendance Reports</p> <p>20 in order to render your opinion in this case?</p> <p>21 MS. KEEN: Objection. Form.</p> <p>22 THE WITNESS: I don't think so. I don't recall</p> <p>23 any other reports.</p> <p>24</p>
<p style="text-align: right;">Page 87</p> <p>1 render your expert opinion in this case?</p> <p>2 A. Yes. I have listed everything here that</p> <p>3 was given to me. You will see from what I gave you</p> <p>4 on the flash drive that I reviewed, for example,</p> <p>5 you see where it says police reports known as</p> <p>6 Case and Supplementary Reports? And then Court</p> <p>7 Attendance Reports? Well, that's all part of the</p> <p>8 file, but I just separated them as two different</p> <p>9 reports even though they come out of the same file.</p> <p>10 But that's -- that's all that I -- that I looked</p> <p>11 at.</p> <p>12 Q. You just mentioned a file. Did you review</p> <p>13 a police file in this case?</p> <p>14 A. Well, if -- if the Case Reports and</p> <p>15 Supplementary Reports and Court Attendance Reports</p> <p>16 that I looked at appear to me to come out of a file</p> <p>17 for that RD number, they are all indexed under that</p> <p>18 RD number assigned to this murder case.</p> <p>19 Q. So was it your understanding that you were</p> <p>20 looking at the investigative file?</p> <p>21 A. Yeah, I think you would call it the</p> <p>22 investigative file.</p> <p>23 Q. Were there any other reports in that</p> <p>24 investigative file or documents under the RD</p>	<p style="text-align: right;">Page 89</p> <p>1 BY MS. ITCHHAPORIA:</p> <p>2 Q. So, for example, you didn't look at -- you</p> <p>3 didn't review Mr. Andersen's arrest report?</p> <p>4 A. No, I don't think I even saw that arrest</p> <p>5 report.</p> <p>6 Q. Did you conduct any independent research</p> <p>7 in order to prepare your report in this case?</p> <p>8 A. No.</p> <p>9 Q. Did you consult with anyone besides</p> <p>10 plaintiff's counsel to form your opinions in this</p> <p>11 case?</p> <p>12 A. No.</p> <p>13 Q. Are there any documents or materials that</p> <p>14 you relied upon to form your opinions in this case</p> <p>15 that are not included in this list?</p> <p>16 A. No.</p> <p>17 Q. Did you rely on any authoritative text or</p> <p>18 journals or articles in forming your opinions in</p> <p>19 this case?</p> <p>20 MS. KEEN: Objection. Form.</p> <p>21 THE WITNESS: No.</p> <p>22 BY MS. ITCHHAPORIA:</p> <p>23 Q. Did you rely on any physical or tangible</p> <p>24 evidence in forming your opinions in this case?</p>

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<p style="text-align: right;">Page 90</p> <p>1 A. Just for the purposes of answering your</p> <p>2 question, the answer would be no. But I do see</p> <p>3 that you have got -- I have listed here written</p> <p>4 notes of then polygraph examiner John Stout.</p> <p>5 And theoretically if they were to be used</p> <p>6 at trial, that those documents would be tangible</p> <p>7 evidence. But those -- other than that, you</p> <p>8 mentioned did I look at the knife or something like</p> <p>9 that, that she supposedly was killed with, the</p> <p>10 answer is no. Okay?</p> <p>11 Q. You didn't look at any photographs or</p> <p>12 anything like that?</p> <p>13 A. No. I did not.</p> <p>14 Q. Were there any rules or regulations or</p> <p>15 General Orders or special orders of the Chicago</p> <p>16 Police Department that you reviewed in forming your</p> <p>17 opinions in this case?</p> <p>18 MS. KEEN: Objection. Form.</p> <p>19 THE WITNESS: No.</p> <p>20 BY MS. ITCHHAPORIA:</p> <p>21 Q. Who provided you with the documents that</p> <p>22 you reviewed in order to render your opinions in</p> <p>23 this case?</p> <p>24 A. I think Roshna, Heather. And Belinda sent</p>	<p style="text-align: right;">Page 92</p> <p>1 the call.</p> <p>2 Q. So you did not review Daniel Andersen's</p> <p>3 court reported statement; is that correct?</p> <p>4 A. I did not.</p> <p>5 Q. You indicate here that you reviewed the</p> <p>6 deposition and written notes of then</p> <p>7 polygraph examiner John Stout. Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Did you review his entire deposition</p> <p>10 transcript?</p> <p>11 A. Yes, I did.</p> <p>12 Q. And was that Mr. Stout's deposition</p> <p>13 transcript in the Andersen case that you reviewed?</p> <p>14 A. Say that again, please.</p> <p>15 Q. Did you review Mr. Stout's deposition</p> <p>16 transcript in the Andersen matter, this case?</p> <p>17 A. In this case, that's correct.</p> <p>18 Q. Okay. Did the deposition transcript have</p> <p>19 any exhibits attached to it that you reviewed?</p> <p>20 A. I think it had exhibits attached to it</p> <p>21 which were the exhibits in the polygraph unit file,</p> <p>22 the notes and the graphs of his running the</p> <p>23 polygraph at that time.</p> <p>24 Q. And you reviewed those?</p>
<p style="text-align: right;">Page 91</p> <p>1 me one document if I am not mistaken.</p> <p>2 Q. So is it accurate to say that the</p> <p>3 documents that you reviewed were selected by</p> <p>4 plaintiff's counsel?</p> <p>5 MS. KEEN: Objection. Form.</p> <p>6 THE WITNESS: It's accurate because that's</p> <p>7 always the case when I am retained.</p> <p>8 BY MS. ITCHHAPORIA:</p> <p>9 Q. Were there any documents that you</p> <p>10 requested to review?</p> <p>11 A. No.</p> <p>12 Q. Where it says in your report on page 1,</p> <p>13 "Police reports known as Case and Supplementary</p> <p>14 Reports," do you know how many Supplementary</p> <p>15 Reports you reviewed?</p> <p>16 A. No, I do not. I did not count them.</p> <p>17 Q. Was it more than one?</p> <p>18 A. Yes.</p> <p>19 Q. And you mentioned the original Case</p> <p>20 Report, that was the handwritten document?</p> <p>21 A. Yes. If that's the -- I think it is</p> <p>22 called a General Offense Report. It is a</p> <p>23 handwritten document. That's the one that is</p> <p>24 prepared by the uniformed officers responding to</p>	<p style="text-align: right;">Page 93</p> <p>1 A. Well, I saw the graphs, but I don't know</p> <p>2 what they mean. So I'm not going to say I reviewed</p> <p>3 them because just looking at them it may as well be</p> <p>4 written in some remote, you know, language because</p> <p>5 I have no idea how to interpret those or what they</p> <p>6 mean.</p> <p>7 Q. Did you review the other documents that</p> <p>8 were in the polygraph file that were attached to</p> <p>9 the deposition transcript of Mr. Stout?</p> <p>10 A. If you are referring to his handwritten</p> <p>11 notes, yes. Right now I just don't recall anything</p> <p>12 else there.</p> <p>13 Q. You said -- so you reviewed his</p> <p>14 handwritten notes, Mr. Stout's handwritten notes?</p> <p>15 A. Yeah. As I recall I think that they were</p> <p>16 on -- the paper was yellow.</p> <p>17 Q. Okay.</p> <p>18 A. Handwritten notes.</p> <p>19 Q. Were you able to read those handwritten</p> <p>20 notes of Mr. Stout's that were on yellow paper?</p> <p>21 A. I think for the most part I was able to,</p> <p>22 yes.</p> <p>23 Q. Are you familiar with Mr. Stout's</p> <p>24 handwriting?</p>

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<p style="text-align: right;">Page 94</p> <p>1 A. No.</p> <p>2 Q. Did you rely on Mr. Stout's deposition</p> <p>3 testimony for his interpretation of his handwritten</p> <p>4 notes on that yellow piece of paper?</p> <p>5 A. Yes, I did.</p> <p>6 Q. Does it indicate in this list that you</p> <p>7 reviewed select portions of the deposition of</p> <p>8 former Detective James Higgins? Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Were you only provided with selected</p> <p>11 portions of Mr. Higgins's deposition testimony?</p> <p>12 A. No.</p> <p>13 Q. So you didn't review his entire deposition</p> <p>14 transcript? You just reviewed select portions of</p> <p>15 it?</p> <p>16 A. The select portions that I was asked to</p> <p>17 review. And that's what I focused on in the</p> <p>18 preparation of my report.</p> <p>19 Q. Okay. So --</p> <p>20 MS. KEEN: Were you finished with your answer?</p> <p>21 THE WITNESS: Yes.</p> <p>22 MS. KEEN: Okay.</p> <p>23 BY MS. ITCHHAPORIA:</p> <p>24 Q. My question was though is it accurate to</p>	<p style="text-align: right;">Page 96</p> <p>1 were told to review?</p> <p>2 A. I reviewed selected portions that I was</p> <p>3 asked to look at.</p> <p>4 Q. Do you remember which selected portions of</p> <p>5 his testimony you reviewed?</p> <p>6 A. There were three selected portions. But I</p> <p>7 think one of them was somewhere like on page 146</p> <p>8 and a few pages thereafter. It's about the --</p> <p>9 about the only numbers I can remember right now. I</p> <p>10 would have to look back at the document and see</p> <p>11 what I reviewed there.</p> <p>12 Q. Okay. So on the flash drive that you</p> <p>13 provided to me this morning, did you just -- did</p> <p>14 you demarcate or highlight the selective portions</p> <p>15 of Mr. Higgins's deposition testimony that you</p> <p>16 reviewed?</p> <p>17 A. Yes.</p> <p>18 Q. Okay.</p> <p>19 A. If you go to -- if you bring it up on the</p> <p>20 screen and go -- open up Comments, you'll see the</p> <p>21 highlights and then any comments I wrote about</p> <p>22 that. And you will see that there -- the</p> <p>23 highlights are in three different sections.</p> <p>24 Q. Okay.</p>
<p style="text-align: right;">Page 95</p> <p>1 say that you did not review his entire deposition</p> <p>2 transcript, Mr. Higgins?</p> <p>3 A. That is accurate.</p> <p>4 Q. Okay. Do you remember the date of that</p> <p>5 deposition transcript that you reviewed of</p> <p>6 Mr. Higgins, the select portions?</p> <p>7 A. The date of the deposition that he sat</p> <p>8 for?</p> <p>9 Q. Right.</p> <p>10 A. Sometime in 2017. That's what I remember.</p> <p>11 Q. Okay. The reason I am asking because</p> <p>12 Mr. -- there is three deposition transcripts from</p> <p>13 Mr. Higgins. So I am trying to determine if you</p> <p>14 reviewed select portions from each transcript or if</p> <p>15 it was from one deposition --</p> <p>16 A. No.</p> <p>17 Q. -- sitting?</p> <p>18 A. If you look at the flash drive, it will</p> <p>19 tell you -- it will actually show you the copy of</p> <p>20 the deposition --</p> <p>21 Q. Okay.</p> <p>22 A. -- that I reviewed the selected portions.</p> <p>23 Q. So is it -- did you only review selected</p> <p>24 portions because those were the portions that you</p>	<p style="text-align: right;">Page 97</p> <p>1 A. And those are the sections that I</p> <p>2 reviewed.</p> <p>3 Q. Were there any attachments to the</p> <p>4 deposition transcript that you were provided with?</p> <p>5 A. If there were, I didn't look that far</p> <p>6 back. The attachments usually are at the back end.</p> <p>7 This was more -- as I recall that, I think that</p> <p>8 deposition transcript was 300 pages long according</p> <p>9 to the PDF counter up on top.</p> <p>10 Q. Okay.</p> <p>11 A. So I did not look in the back for the word</p> <p>12 index or anything like that.</p> <p>13 Q. Okay.</p> <p>14 A. Just went to those sections.</p> <p>15 Q. So if there were exhibits attached to that</p> <p>16 300-page deposition transcript, you did not look at</p> <p>17 them?</p> <p>18 A. No. I have no idea what was attached.</p> <p>19 Q. And it indicates on your list here on</p> <p>20 page 1 that you also reviewed the depositions of</p> <p>21 then Prosecutors Erickson and Cohen. Do you see</p> <p>22 that?</p> <p>23 A. Yes.</p> <p>24 Q. Did you review the entire deposition</p>

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<p style="text-align: right;">Page 98</p> <p>1 transcript of Erikson?</p> <p>2 A. I read through it. When you say the</p> <p>3 entirety, sometimes I skim things, you know, like</p> <p>4 when you get through the -- when you get in the</p> <p>5 preliminary questions, things like, you know,</p> <p>6 background stuff. I generally jump over that</p> <p>7 because it doesn't -- it doesn't affect what I am</p> <p>8 doing. I am looking for substantive things. It</p> <p>9 would be the same thing for Cohen.</p> <p>10 And my recollection is what they had to</p> <p>11 say really did not deal with the assignment that I</p> <p>12 was giving -- given regarding the reporting of the</p> <p>13 events of the investigation by the detectives.</p> <p>14 Q. Were there -- was there more than one</p> <p>15 deposition transcript for Mr. Cohen?</p> <p>16 A. I don't think so. I mean I am only</p> <p>17 telling you what I can remember, but -- you know, I</p> <p>18 said that -- in going through those depositions I'd</p> <p>19 skim through the background stuff.</p> <p>20 And unless there was something that I</p> <p>21 found that would be relevant to the task that I had</p> <p>22 to deal with, I didn't pay much attention to it.</p> <p>23 That's why you will see in my Facts and my Opinion</p> <p>24 I really make no mention of Erikson and Cohen.</p>	<p style="text-align: right;">Page 100</p> <p>1 A. I don't remember. I don't recall looking</p> <p>2 at any attachments to it.</p> <p>3 Q. Did you review her entire deposition</p> <p>4 transcript?</p> <p>5 A. Again, I went through it, reading through</p> <p>6 it. And I have to say I went from beginning to</p> <p>7 end, what was provided to me. But I don't -- I</p> <p>8 can't tell you that I read every line. I am</p> <p>9 looking for things that are pertinent.</p> <p>10 Q. But you -- for Miss Grabowski's deposition</p> <p>11 transcript you put an eye on at least every page of</p> <p>12 the transcript?</p> <p>13 A. Did I do what?</p> <p>14 Q. You put your eye on at least every page of</p> <p>15 the transcript?</p> <p>16 A. Yes, I went on every page, you know.</p> <p>17 Q. Okay. And then the other thing you</p> <p>18 reviewed on this list is your testimony from</p> <p>19 Palmer versus City of Chicago matter; is that</p> <p>20 correct?</p> <p>21 A. That's correct.</p> <p>22 Q. What was the date of the testimony from</p> <p>23 the Palmer case?</p> <p>24 A. April 1982.</p>
<p style="text-align: right;">Page 99</p> <p>1 I'm dealing with what I think I have been</p> <p>2 charged to do. And that is to look at the</p> <p>3 reporting behavior of the detectives.</p> <p>4 Q. Were there any exhibits that were attached</p> <p>5 to the deposition transcript of Mr. Erickson?</p> <p>6 A. I can't tell you. I just can't. I can't.</p> <p>7 I cannot tell you.</p> <p>8 Q. Okay. Do you -- do you know if you</p> <p>9 reviewed -- if there were exhibits attached to his</p> <p>10 deposition transcript, did you review those?</p> <p>11 A. No.</p> <p>12 Q. And same for Mr. Cohen, if there were</p> <p>13 exhibits attached to his deposition transcript, did</p> <p>14 you review those?</p> <p>15 A. No.</p> <p>16 Q. You also reviewed the deposition</p> <p>17 transcript of Diane Diaz-Grabowski; is that</p> <p>18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. And that was the deposition that she</p> <p>21 provided in this civil matter?</p> <p>22 A. Yes.</p> <p>23 Q. Were there any exhibits attached to</p> <p>24 Miss Grabowski's deposition testimony?</p>	<p style="text-align: right;">Page 101</p> <p>1 Q. When you were provided that testimony,</p> <p>2 were you testifying in your capacity as the</p> <p>3 superintendent?</p> <p>4 A. Yes.</p> <p>5 Q. And was that testimony given at a hearing?</p> <p>6 A. Yes.</p> <p>7 Q. Was that a hearing on a TRO?</p> <p>8 A. Yes.</p> <p>9 Q. Did you review both your testimony from</p> <p>10 your direct and cross examination from that</p> <p>11 hearing?</p> <p>12 A. Yes, the entire testimony. I think</p> <p>13 Mr. Fioretti was representing the City and</p> <p>14 Mr. Deutsch and Cunningham I think were</p> <p>15 representing the plaintiff.</p> <p>16 Q. Looking at the Facts section, paragraph 1,</p> <p>17 you've got Cathy Trunko was found fatally stabbed</p> <p>18 on 19th January 1980 at about 2210 to 2219 hours.</p> <p>19 And then you state I cannot read the last digit on</p> <p>20 the Case Report at 4936 South Paulina Street in</p> <p>21 Chicago, Illinois. Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. Did you get the information about the date</p> <p>24 and time from the Case Report?</p>

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<p style="text-align: right;">Page 102</p> <p>1 A. Yes. That's why I said I couldn't read 2 the last digit. In other words, I see that there 3 was a time frame that the officers wrote, 4 2210-22 -- and then I could read the 1, but I 5 couldn't make out the last digit. So I put the 9 6 in there as being all encompassing because if you 7 went one more, then you change the third digit to a 8 2. Does that make sense what I just said to you? 9 Q. I am a little lost. What digit are you 10 talking about? 11 A. Okay, let's look at the time frame, 2210, 12 which is 10:10 p.m. in civilian time, to 13 2219 hours. And I said I can't read the last digit 14 on the Case Report. 15 Q. Oh. 16 A. The last digit, you know, of the 2219 that 17 I have in there. So I put 9 as the maximum number 18 because if you went beyond that, see, it would be 19 2220. The third digit would have to change. 20 Q. Got it. 21 A. So I'm looking at -- it had to be 22 somewhere within a ten-minute period. 23 MS. ITCHHAPORIA: Okay. Let's mark the Case 24 Report.</p>	<p style="text-align: right;">Page 104</p> <p>1 Okay? And the fourth digit is not -- to me not 2 readable. So it's got to be somewhere between 0 3 and 9. So I don't know if that is a 5, a 6, an 8 4 or what. 5 So I said I can't read the last digit, but 6 it was somewhere between 2210 and 2219. 7 Q. And you are saying that she was murdered 8 somewhere between that time frame? 9 A. I'm not saying that. I'm saying that's 10 what the Case Report says. 11 Q. Okay. 12 A. Yeah. 13 Q. Now, in paragraph 2 you state prior to her 14 being found stabbed it was established that she was 15 contacted by telephone by her best friend Diane 16 Diaz who was at Dot's Tavern in the company of 17 Robert LaGace. Do you see that? 18 A. Yes. 19 Q. You are not saying here that before she 20 was found stabbed, that it was established that she 21 had been contacted by her best friend? 22 A. Would you repeat the question or read it 23 back to me. 24 Q. Sure. At what point -- I guess what I am</p>
<p style="text-align: right;">Page 103</p> <p>1 (Whereupon, Brzeczek 2 Deposition Exhibit No. 4 was 3 marked for identification.) 4 BY MS. ITCHHAPORIA: 5 Q. The court reporter has handed to you what 6 has been marked as Exhibit No. 4 to your 7 deposition. Can you identify that, please. 8 A. That appears to be a Case Report Index 9 under RD number, B, as in boy, 025267, which is 10 assigned to the murder of Cathy, C-A-T-H-Y, Trunko 11 on January 19, 2- 19 -- January 19th, 1980, at 12 about 22 something hours. I can't make out that 13 last digit. 14 Q. That's the digit that you are talking 15 about in the Box No. 6? 16 A. That's the digit, yeah, yeah, somewhere 17 between 10 and 19 in Box 6. 18 Q. So this is the R -- Exhibit 4 is the Case 19 Report that you are referring to in paragraph 1? 20 A. That's correct. 21 Q. Where are you getting the 2210 time frame 22 from? 23 A. Well, here is what I did, you look at 24 Box 6 and you have three clear digits, 2, 2, 1.</p>	<p style="text-align: right;">Page 105</p> <p>1 saying -- I will strike the question. 2 At what point was it established that she 3 had been contacted by her best friend? 4 A. It was established after she was found 5 murdered. 6 Q. Okay. And do you know where you got that 7 information from? 8 A. The Case Report or the Supplementary 9 Report. 10 Q. And I see here you have LaGace spelled 11 L-a-G-a-c-e. Where did you get that spelling of 12 LaGace from? 13 A. I think I got it off the Supplementary 14 Report. 15 Q. Do you know which detective wrote that 16 Supplementary Report? 17 A. No. 18 MS. KEEN: Just Objection. Foundation, form. 19 THE WITNESS: I think the -- I think the report 20 that the detective submitted that night, whoever 21 was assigned to the scene. 22 BY MS. ITCHHAPORIA: 23 Q. That's a report you think you got that 24 information from?</p>

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<p style="text-align: right;">Page 106</p> <p>1 THE COURT REPORTER: I'm sorry, I didn't hear</p> <p>2 that --</p> <p>3 MS. KEEN: I am just going to object to be</p> <p>4 foundation because he is not looking at any report</p> <p>5 in front of him.</p> <p>6 THE COURT REPORTER: I didn't hear the last</p> <p>7 part of the question.</p> <p>8 BY MS. ITCHHAPORIA:</p> <p>9 Q. My question was is it -- you said it was</p> <p>10 from detectives from the scene. And I am asking</p> <p>11 you is that where you got the spelling of LaGace</p> <p>12 from, from that Supplementary Report?</p> <p>13 MS. KEEN: And I am just going to object.</p> <p>14 Foundation. Calls for speculation because he</p> <p>15 doesn't have that report in front of him.</p> <p>16 THE WITNESS: Yeah, I think in the</p> <p>17 Supplementary Report which may have very well been</p> <p>18 the first Supplementary submitted by the</p> <p>19 detectives.</p> <p>20 When I say that night, I'm talking about</p> <p>21 from the time which the body was discovered until</p> <p>22 the report was submitted on the 20th, that I think</p> <p>23 that is the report where I got the name LaGace</p> <p>24 from.</p>	<p style="text-align: right;">Page 108</p> <p>1 A. That's what I read, that -- they're saying</p> <p>2 that they interviewed them.</p> <p>3 Q. So detectives are saying that they</p> <p>4 interviewed LaGace, but then you are saying it was</p> <p>5 allegedly -- that he was allegedly interviewed?</p> <p>6 A. Yes.</p> <p>7 MS. KEEN: Objection. Form.</p> <p>8 BY MS. ITCHHAPORIA:</p> <p>9 Q. So are you not taking what's on the report</p> <p>10 as their interview of Mr. LaGace to, in fact, be</p> <p>11 the truth, that they, in fact, didn't interview</p> <p>12 him?</p> <p>13 MS. KEEN: Objection. Form.</p> <p>14 THE WITNESS: At the time that I wrote this,</p> <p>15 and today, it is my opinion that when they said</p> <p>16 that LaGace confirmed the telephone conversation,</p> <p>17 that Diane Diaz had with the decedent, that's all</p> <p>18 they said.</p> <p>19 I'd like to have them explain how LaGace</p> <p>20 was able to confirm that conversation. You know,</p> <p>21 was he listening in on the conversation? Did they</p> <p>22 have the phone up to both of their ears? Or was he</p> <p>23 only hearing one part of the conversation? That</p> <p>24 is, Diaz's side of the conversation.</p>
<p style="text-align: right;">Page 107</p> <p>1 BY MS. ITCHHAPORIA:</p> <p>2 Q. But my question is specifically the</p> <p>3 capitalizing of the G in LaGace. Where did you get</p> <p>4 that from?</p> <p>5 MS. KEEN: Objection. Asked and answered. It</p> <p>6 is calling for speculation and foundation.</p> <p>7 THE WITNESS: The way I spelled it here?</p> <p>8 BY MS. ITCHHAPORIA:</p> <p>9 Q. Right.</p> <p>10 A. On the -- on the report it said LaGace.</p> <p>11 And -- L-A-G-A-C-E. I may have changed the</p> <p>12 spelling to LaGace with the small A -- or the</p> <p>13 capital G, put it that way.</p> <p>14 Q. Now, you say in paragraph 3 here the only</p> <p>15 thing mentioned about LaGace in any of the police</p> <p>16 reports (parole -- patrol and detective) is that</p> <p>17 LaGace was allegedly interviewed by detectives on</p> <p>18 20th of January 1980. And according to detectives</p> <p>19 he said the same thing as did Diane Diaz relative</p> <p>20 to the phone call. Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Why here did you say that LaGace was</p> <p>23 allegedly interviewed by detectives on 20th -- on</p> <p>24 20 January 1980?</p>	<p style="text-align: right;">Page 109</p> <p>1 So -- and the fact that that's all they</p> <p>2 said about LaGace, they -- further solidifies my</p> <p>3 allegedly interviewed him because you can say</p> <p>4 allegedly. If you call that an interview, then I'm</p> <p>5 saying alleged. I don't think that they conducted</p> <p>6 a proper interview of LaGace. But that's all they</p> <p>7 got from him.</p> <p>8 BY MS. ITCHHAPORIA:</p> <p>9 Q. What -- what is your factual base for</p> <p>10 saying that the detectives allegedly interviewed</p> <p>11 Mr. LaGace on January 20th, 1980?</p> <p>12 MS. KEEN: Objection. Asked and answered.</p> <p>13 THE WITNESS: I think I just gave you the</p> <p>14 reason for that. I just told you that they said</p> <p>15 that he confirmed the telephone conversation. How?</p> <p>16 I want to know how he confirmed it. What did he</p> <p>17 hear the two parties saying because if he is only</p> <p>18 hearing one part of the conversation, he is not</p> <p>19 hearing the conversation. The conversation implies</p> <p>20 exchange of words between two people. None of that</p> <p>21 is said.</p> <p>22 BY MS. ITCHHAPORIA:</p> <p>23 Q. But you are not questioning that the</p> <p>24 detectives did, in fact, interview Mr. LaGace on</p>

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<p style="text-align: right;">Page 110</p> <p>1 January 20th, 1980?</p> <p>2 A. I am.</p> <p>3 Q. You are?</p> <p>4 A. I am.</p> <p>5 Q. Are you saying that they interviewed him</p> <p>6 but the interview was not thorough or that they</p> <p>7 just didn't interview him? Or you can't say?</p> <p>8 MS. KEEN: Objection. Form.</p> <p>9 THE WITNESS: Specifically I cannot say. From</p> <p>10 what they wrote, if this is all that they got from</p> <p>11 him, that he confirmed the conversation, in my</p> <p>12 opinion that wasn't an interview.</p> <p>13 BY MS. ITCHHAPORIA:</p> <p>14 Q. What was it then?</p> <p>15 A. I don't know.</p> <p>16 Q. What would you call it? If all they got</p> <p>17 from Mr. LaGace was that confirmation of the phone</p> <p>18 call what is that called then in your opinion?</p> <p>19 A. Well, considering the totality of the</p> <p>20 circumstances that I now know by reading other</p> <p>21 documents, okay? That apparently they had some</p> <p>22 information about LaGace, more than he overheard</p> <p>23 the conversation because Bedran and Rochowicz took</p> <p>24 him down for a polygraph about 48 hours later.</p>	<p style="text-align: right;">Page 112</p> <p>1 contact in connection with their investigation of</p> <p>2 the murder of Cathy Trunko and did not include any</p> <p>3 of those facts in their -- in any of their reports.</p> <p>4 Q. When you are saying in that sentence the</p> <p>5 detectives, which detectives are you talking about?</p> <p>6 A. I'm not sure who wrote that report, but it</p> <p>7 would be the one who wrote the report, the</p> <p>8 Supplementary Report about his confirming the</p> <p>9 telephone conversation.</p> <p>10 Q. Okay.</p> <p>11 MS. ITCHHAPORIA: All right, can we take a</p> <p>12 quick break? I am going to get that report.</p> <p>13 THE VIDEOGRAPHER: We are going off the video</p> <p>14 record at 12:43 p.m.</p> <p>15 (Recess taken.)</p> <p>16 THE VIDEOGRAPHER: We are going back on the</p> <p>17 video record at 12:54 p.m.</p> <p>18 BY MS. ITCHHAPORIA:</p> <p>19 Q. Okay, Mr. Brzeczek, the court reporter has</p> <p>20 handed to you what has been marked as Exhibit No. 5</p> <p>21 to your deposition which is a Supplementary Report</p> <p>22 dated January 20th, 1980, in the Trunko homicide</p> <p>23 investigation. Is this the Supplementary Report</p> <p>24 that you are referring to in paragraph 3?</p>
<p style="text-align: right;">Page 111</p> <p>1 Okay? A little more than 48 hours later.</p> <p>2 Now, they take him down for a polygraph to</p> <p>3 confirm that he heard the conversation. I didn't</p> <p>4 see any of those questions being asked of him by</p> <p>5 the polygraph examiner. I saw nothing in the</p> <p>6 polygraph examiner's notes that the detectives said</p> <p>7 that he confirmed the conversation.</p> <p>8 There is nothing that relates to this</p> <p>9 confirming a conversation subsequent to that one</p> <p>10 statement in the Supplementary Report.</p> <p>11 Q. So you go on to state here that -- in</p> <p>12 paragraph 3 that the detectives did not report as</p> <p>13 to whether or not they asked LaGace if he knew</p> <p>14 Trunko which is especially problematic since LaGace</p> <p>15 was at Dot's Tavern with Trunko's best friend Diane</p> <p>16 Diaz and went to go visit the victim on the night</p> <p>17 of the murder. Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Second sentence in paragraph 3?</p> <p>20 A. Yes.</p> <p>21 Q. Why is that especially problematic?</p> <p>22 A. Well, it is problematic because they</p> <p>23 failed to report that. Those are facts about the</p> <p>24 activities of an individual with whom they had</p>	<p style="text-align: right;">Page 113</p> <p>1 A. Yes.</p> <p>2 Q. Okay. In the Supplementary Report the</p> <p>3 reporting officer is Richard Bedran; is that</p> <p>4 correct?</p> <p>5 A. That's correct.</p> <p>6 Q. Okay. So when you say in this paragraph,</p> <p>7 in paragraph 3 on page 1 that the detectives did</p> <p>8 not report as to whether or not they asked LaGace,</p> <p>9 which detective are you referring to now that you</p> <p>10 have had a chance to look at this report?</p> <p>11 A. I'm referring to Detective Richard Bedran.</p> <p>12 Q. Okay. And you say in this paragraph the</p> <p>13 only thing mentioned about LaGace in any of the</p> <p>14 police reports is that LaGace was allegedly</p> <p>15 interviewed by detectives on 20th January 1980.</p> <p>16 But Mr. LaGace is mentioned in other</p> <p>17 police reports such as Mr. Stout's Polygraph Case</p> <p>18 Report; isn't that true?</p> <p>19 A. It is true. The reason why I said this is</p> <p>20 on December -- excuse me, on January 20th, 1980,</p> <p>21 that was all that the detectives reported in</p> <p>22 connection with their contact with Robert LaGace,</p> <p>23 that he confirmed the telephone conversation.</p> <p>24 Q. And I think again there though you</p>

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<p style="text-align: right;">Page 114</p> <p>1 pluralized detectives, but you are talking about</p> <p>2 Detective Richard Bedran?</p> <p>3 A. I'm referring to this report that you gave</p> <p>4 me as Exhibit No. 5 which was prepared and signed</p> <p>5 by Richard Bedran, yes.</p> <p>6 Q. And on page 2 of the report, Mr. Robert</p> <p>7 LaGace's name is mentioned. And it states that --</p> <p>8 it has his identifying information, his address,</p> <p>9 his phone number. And it says, "Mr. LaGace stated</p> <p>10 that he was with Diane Diaz at Dot's and stated the</p> <p>11 same story as Miss Diaz did regarding the phone</p> <p>12 call to the victim"?</p> <p>13 A. That's correct.</p> <p>14 Q. Okay. You are not questioning that that</p> <p>15 interview occurred?</p> <p>16 A. No. I'm not questioning that the</p> <p>17 interview occurred. I'm simply questioning what</p> <p>18 Bedran or Bedran wrote here about the extent of the</p> <p>19 information that he obtained from LaGace.</p> <p>20 Q. So is it your opinion that he -- that</p> <p>21 Mr. Bedran on January 20th, 1980, obtained more</p> <p>22 information from Mr. Robert LaGace that's not</p> <p>23 included in this report?</p> <p>24 THE WITNESS: I am sorry, could you read that</p>	<p style="text-align: right;">Page 116</p> <p>1 of the presence of Diaz.</p> <p>2 Q. Okay. And, again, there is no -- or is</p> <p>3 there? Can you point to any General Order or</p> <p>4 special order that would say that Mr. LaGace and</p> <p>5 Miss Diaz would have had to be separately</p> <p>6 interviewed?</p> <p>7 A. There is a standing principle in</p> <p>8 investigations for detectives as a standard rule in</p> <p>9 law enforcement. You interview witnesses</p> <p>10 separately. Just like you have the rule in court</p> <p>11 that there is exclusion of -- exclusion of</p> <p>12 witnesses motion that's made at the beginning of a</p> <p>13 hearing or trial so they don't hear each other's</p> <p>14 testimony.</p> <p>15 You interview the witnesses separately,</p> <p>16 apart from each other so they are not either</p> <p>17 parroting or repeating what someone else has said.</p> <p>18 It's done to obtain additional</p> <p>19 information. Or it's done to obtain verification</p> <p>20 or confirmation of information. Or it's done to</p> <p>21 determine if everyone is basically telling the</p> <p>22 truth.</p> <p>23 So if you are Diaz and you say A, and</p> <p>24 LaGace is right there and he says, yeah, I agree</p>
<p style="text-align: right;">Page 115</p> <p>1 question back to me.</p> <p>2 (Whereupon, the record was</p> <p>3 read as requested.)</p> <p>4 THE WITNESS: I don't know if he obtained more</p> <p>5 information. You know, he could have and not</p> <p>6 reported it, or he also could have not sought</p> <p>7 additional information from LaGace.</p> <p>8 BY MS. ITCHHAPORIA:</p> <p>9 Q. Okay. And there is no -- can you point me</p> <p>10 to any General Order or special order that would</p> <p>11 have required the detectives in 1980 to seek more</p> <p>12 information from Mr. LaGace than what's reported in</p> <p>13 Exhibit 5?</p> <p>14 A. No, I can't point you to any</p> <p>15 General Order. But in reading the report and</p> <p>16 reading reports like this for many, many years,</p> <p>17 this does not make much sense to me that he</p> <p>18 confirmed -- stated the same, stated the same as</p> <p>19 Miss Diaz did regarding the phone call to the</p> <p>20 victim.</p> <p>21 That doesn't tell me anything about --</p> <p>22 about what he got from LaGace. I don't even</p> <p>23 know -- it seems to me that -- there is no</p> <p>24 indication here if LaGace was even interviewed out</p>	<p style="text-align: right;">Page 117</p> <p>1 with that, that's one thing.</p> <p>2 If you take LaGace apart from Diaz, ask</p> <p>3 Diaz, she says A and he tells you B, now you have</p> <p>4 conflicting information and you have to determine</p> <p>5 at some point who is telling you the truth.</p> <p>6 Q. So --</p> <p>7 A. So it is all a truth-seeking process that</p> <p>8 the detectives are charged with pursuing. And you</p> <p>9 don't arrive at the truth by throwing everybody in</p> <p>10 the same pot and say tell me what happened.</p> <p>11 Q. Are you assuming that Detective Bedran</p> <p>12 interviewed Mr. Robert LaGace and Miss Diane Diaz</p> <p>13 at the same time and in each other's presence on</p> <p>14 January 20th, 1980?</p> <p>15 A. I --</p> <p>16 MS. KEEN: Objection. Misstates his testimony.</p> <p>17 THE WITNESS: I did not make any such</p> <p>18 assumption whatsoever. I don't know because he did</p> <p>19 not say that they were -- they were interviewed</p> <p>20 separately.</p> <p>21 BY MS. ITCHHAPORIA:</p> <p>22 Q. Is there any General Order or special</p> <p>23 order that you can point me to that was in effect</p> <p>24 in January 1980 that would have required a</p>

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<p style="text-align: right;">Page 118</p> <p>1 detective to report in a Supplementary Report that</p> <p>2 the interview of two witnesses was conducted in</p> <p>3 separate interview rooms or at separate times?</p> <p>4 A. No. There is no order that I can point</p> <p>5 you to right now. But I can tell you that in 1980</p> <p>6 that was a standard practice for detectives to</p> <p>7 separate witnesses. They did it in all</p> <p>8 investigations, not only in murder investigations.</p> <p>9 But the point is to separate the witnesses so they</p> <p>10 are not repeating or echoing someone else's</p> <p>11 testimony.</p> <p>12 Q. Are you -- are you -- I get that you are</p> <p>13 saying in 1980 it was standard practice for</p> <p>14 detectives to separate witnesses. Are you saying</p> <p>15 it's also -- it was also standard practice in 1980</p> <p>16 for detectives to document in a report that they</p> <p>17 separated witnesses for interviews?</p> <p>18 A. Not necessarily to document in a report.</p> <p>19 But it would be very simple to put in witnesses</p> <p>20 were interviewed separately or individually.</p> <p>21 Q. Have you seen such reports?</p> <p>22 A. Yes, I have.</p> <p>23 Q. Can you name a case where you have seen</p> <p>24 such a report?</p>	<p style="text-align: right;">Page 120</p> <p>1 can arise that you cannot legislate or itemize each</p> <p>2 one of them. Much like in the rules of evidence,</p> <p>3 you know, which you follow during an examination in</p> <p>4 court of a witness, you have to follow those rules.</p> <p>5 But the way people conduct examinations</p> <p>6 within the rules varies. And they all attempt to</p> <p>7 get the same information, the truth to come out.</p> <p>8 And this is what you want to find out here too.</p> <p>9 Q. And when you are saying it logically</p> <p>10 followed that the -- Detective Bedran should have</p> <p>11 asked that question to Mr. LaGace, what's that</p> <p>12 based on?</p> <p>13 A. Commonsense.</p> <p>14 Q. So looking further on in this</p> <p>15 Supplementary Report by Mr. Bedran, you can see</p> <p>16 that he interviewed some other people. Do you see</p> <p>17 that on page 1, 2, and 3?</p> <p>18 A. Yes.</p> <p>19 Q. Is it your opinion that those individuals</p> <p>20 were also improperly interviewed because there is</p> <p>21 nothing in this report about whether or not those</p> <p>22 witnesses knew Miss Trunko?</p> <p>23 MS. KEEN: Objection. Misstates the document</p> <p>24 and assumes facts not in evidence.</p>
<p style="text-align: right;">Page 119</p> <p>1 A. No.</p> <p>2 Q. You indicate in that paragraph 2 that the</p> <p>3 detectives did not report as to whether or not they</p> <p>4 asked LaGace if he knew Trunko. Do you see that?</p> <p>5 A. In paragraph 3?</p> <p>6 Q. Right. The second sentence there.</p> <p>7 A. That's correct.</p> <p>8 Q. Again, was there a requirement that was in</p> <p>9 effect in 1980 that would have required</p> <p>10 Detective Bedran to ask Mr. LaGace if he knew Cathy</p> <p>11 Trunko?</p> <p>12 A. I don't think that there was a</p> <p>13 General Order or a directive that says that you --</p> <p>14 to a detective that you have to ask a witness if</p> <p>15 they know the victim.</p> <p>16 However, in reviewing what Bedran did here</p> <p>17 in this report seemed to me, my opinion, that since</p> <p>18 they establish that he was with -- that LaGace was</p> <p>19 with Diaz and Diaz was close friends with Trunko,</p> <p>20 it would logically follow to find out from LaGace</p> <p>21 if he also knew Trunko.</p> <p>22 One thing to keep in mind about these</p> <p>23 policies and procedures to which you are referring</p> <p>24 is that there are so many situations that -- that</p>	<p style="text-align: right;">Page 121</p> <p>1 THE WITNESS: It is my opinion the difference</p> <p>2 between these other witnesses that are listed here</p> <p>3 and LaGace is that LaGace was with Diaz. None of</p> <p>4 these other witnesses, Grace Jimenez, Kimberly</p> <p>5 Mikuzis, Theresa Bilter, John and Lillian Kassick,</p> <p>6 Diane Mottier, Stanley -- or excuse me, Walter</p> <p>7 Stankiewicz.</p> <p>8 There is no indication anywhere that they</p> <p>9 were with Diaz, the close friend of Trunko, that</p> <p>10 night. There is no indication that any one of them</p> <p>11 participated in a phone call with Diaz and Trunko.</p> <p>12 Only LaGace did that. So that's how I point to</p> <p>13 LaGace as being different than the other witnesses</p> <p>14 that don't have any reference made to them.</p> <p>15 BY MS. ITCHHAPORIA:</p> <p>16 Q. Well, are you assuming though on</p> <p>17 January 20th when Mr. Bedran interviewed Miss Diaz,</p> <p>18 that Miss Diaz told Mr. Bedran, Detective Bedran</p> <p>19 that LaGace had a phone conversation with</p> <p>20 Miss Trunko?</p> <p>21 A. No, I didn't assume that. I only assumed</p> <p>22 that what Diaz told Bedran is that Diaz had a phone</p> <p>23 conversation with Trunko.</p> <p>24 Q. Okay. So going to paragraph 4, you</p>

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<p style="text-align: right;">Page 122</p> <p>1 indicate that Detectives Bedran and Rochowicz took 2 Mr. LaGace to the CPD Criminalistics Division on 3 January 24th, 1980, at 6:15 p.m. Do you see that? 4 A. Yes. 5 Q. So it was the day after Mr. Bedran 6 interviewed Mr. Bedran -- sorry. Strike that. 7 It was the day after Mr. Bedran 8 interviewed Mr. LaGace that Mr. LaGace is being 9 taken for a polygraph; correct? 10 A. Bedran's report is dated the 20th. And it 11 does not say when he submitted the report; although 12 there is an approval by his sergeant on the 20th of 13 January at five minutes to 5:00 in the afternoon. 14 Now, they went to the polygraph unit about 15 25 hours after the sergeant approved the report. 16 But that still doesn't tell me when Bedran 17 submitted it. 18 It is dated the 20th, but he didn't say 19 when he turned it in on that day. Okay, so 20 that's -- that's the only thing that I can get from 21 these two -- from that document, that it was 22 submitted on the 20th and approved by the sergeant 23 but at 1655 hours according to the report. 24 Q. Now, you said here there is no mention</p>	<p style="text-align: right;">Page 124</p> <p>1 it. 2 Q. Can you -- so I get that there is no 3 General Order or special order. Can you point to 4 any law enforcement standard that I could go look 5 up that was in effect in 1980 that stated it was a 6 requirement of detectives to document in a police 7 report that they took someone to get a polygraph 8 exam? 9 A. I think if you look at the training 10 bulletins that are distributed department-wide back 11 in those days, you look at the training materials 12 for detectives in the pre-service class, the 13 four-week class I mentioned, if you look at a 14 publication which was called the Criminal 15 Investigation Division Standard Operating Procedure 16 that talked about report writing in there, I think 17 that you will find that you come to the conclusion 18 that detectives are required to document in reports 19 all pertinent information, all of their pertinent 20 activity in relation to the investigation. 21 Taking someone for a polygraph exam is a 22 pertinent event in connection with an 23 investigation. 24 Q. When you are saying training bulletins,</p>
<p style="text-align: right;">Page 123</p> <p>1 whatsoever in the detective's reports that 2 Detectives Bedran and Rochowicz took Mr. LaGace to 3 the polygraph unit for a polygraph exam. Is there 4 any General Order or special order that you cited 5 in your report that indicated that they were 6 required to document that in their reports? 7 A. Again, there is no General Order or no 8 directive in the police department in 9 January of 1980 which says that if you are going to 10 take someone to the Criminalistics Division 11 polygraph unit for a polygraph exam, you must 12 document that. 13 The requirement to document that is 14 all-encompassing of what detectives should be 15 documenting in connection with their investigation. 16 Now, the only thing we know from these 17 reports is that Bedran wrote down what he said 18 LaGace told him regarding Cathy Trunko. He 19 confirmed the telephone call. 20 Now, somewhere between that information 21 and 6:15 on the 21st of January 1980 Bedran and 22 Rochowicz, I think it was, take LaGace down for a 23 polygraph exam. There is no mention whatsoever of 24 why they did that. There had to be a reason for</p>	<p style="text-align: right;">Page 125</p> <p>1 which training bulletins are you referring to? 2 A. Chicago Police Department training 3 bulletins. 4 Q. Can you give me a number or a date of 5 which training bulletin you are referring to? 6 A. They came out -- they came out, I think, 7 once a week at that time. And the research and 8 development historically was the custodian of -- 9 the Research and Development Division was the 10 custodian of all department directives, even ones 11 that had expired. 12 So if you wanted to look for something 13 that was rescinded or replaced or archaic, 14 historical no longer applicable, they should have 15 it at the Research and Development Division. 16 The other thing is that because the 17 training bulletin is a department directive. The 18 other thing is is that you may -- you may try the 19 training division or whatever it is called now, for 20 their historical archives on training bulletins. 21 But those training bulletins came out 22 every week on the topic. So they could -- they 23 could -- undoubtedly your clients or your 24 cocounsel's client could undoubtedly research their</p>

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<p style="text-align: right;">Page 126</p> <p>1 records and find those directives that were in 2 existence at that time.</p> <p>3 I was one of the authors of the Criminal 4 Investigation Division Standard Operating 5 Procedures Manual. So I know that that one 6 existed. And I know it contained multiple chapters 7 specifically directed toward detective's conduct 8 and behavior in connection with their duties and 9 their investigative responsibilities.</p> <p>10 BY MS. ITCHHAPORIA:</p> <p>11 Q. Do you have any of those materials with 12 you back in Florida?</p> <p>13 A. No.</p> <p>14 Q. And you didn't review any of those 15 materials to render your opinion in this case?</p> <p>16 A. The only review I did was in my memory 17 about those materials as I just testified to.</p> <p>18 Q. But going back to the training bulletin, 19 can you give me a year or a time frame of when it 20 came out where detectives are required to document 21 all pertinent information?</p> <p>22 A. I can't tell you when it came out. But 23 you can look at the existing directives that were 24 in effect on January 20th, 1980. And you will find</p>	<p style="text-align: right;">Page 128</p> <p>1 investigation. So I'm saying the ordinary use of 2 those two words, "pertinent information," that 3 relates to a homicide investigation.</p> <p>4 BY MS. ITCHHAPORIA:</p> <p>5 Q. What in the training materials that were 6 provided for the four-week pre-service at detective 7 school, how -- what's in those materials that would 8 indicate to a detective that they would be required 9 to document in a police report if they took someone 10 to get polygraphed?</p> <p>11 A. No. 1, to answer your question, going back 12 to Exhibit No. 5, okay, this is a Supplementary 13 Report prepared by Bedran. And it appears to be a 14 typewritten report. It doesn't appear to be a word 15 processor report. And I don't think that the 16 department had word processors back in January of 17 1980.</p> <p>18 If you look at the report, it states 19 here -- and I am just going to go over some of 20 the -- some of the highlights. Cause of death, 21 interviewed. And then Diane Diaz. Okay? And he 22 lists all the witnesses that he interviewed. Okay?</p> <p>23 And then he has a little narrative after 24 each one. And then at the very end you see that he</p>
<p style="text-align: right;">Page 127</p> <p>1 that there is a myriad of directives in effect. 2 And it is just a matter of finding the ones which 3 relate to proper report writing, conducting 4 investigations. All of those topics were covered 5 by, in many cases, more than one directive.</p> <p>6 Q. Is it your recollection that those 7 materials that you discussed, the training 8 bulletins, the training material from the four-week 9 pre-service detective school and the operating -- 10 the criminal operating procedures defined what 11 pertinent information is?</p> <p>12 MS. KEEN: Objection. Form, foundation.</p> <p>13 THE WITNESS: I'm not sure that any of those -- 14 any of those directives defined the phrase 15 "pertinent information." I would be more willing 16 to wager that the word "pertinent" -- or the words 17 "pertinent information" were used with the 18 objective that most people at that time would 19 understand the ordinary meaning of the words 20 "pertinent information" in the context of a police 21 investigation.</p> <p>22 What could be pertinent information for a 23 nurse in a pediatric ward would not necessarily 24 mean pertinent information in a homicide</p>	<p style="text-align: right;">Page 129</p> <p>1 has a canvas here. All these addresses that he 2 listed shows that he was doing a canvas. He was 3 knocking on doors, asking people at these addresses 4 if they saw or heard anything. And you could see 5 heard and saw nothing. Okay?</p> <p>6 So when you look at this report -- it is 7 only three pages and doesn't have a variety of 8 topics, but you will see that there is a certain 9 format to this. Okay?</p> <p>10 Bedran did not learn this in the Patrol 11 Division. Bedran did not learn this from watching 12 an educational television program. Bedran did not 13 learn this from reading a book. This format was 14 taught to the new detectives to follow when they 15 prepare their Supplementary Reports.</p> <p>16 So report writing was an integral part of 17 the detective's pre-service training. Bedran just 18 did not make this format up on his own because he 19 thought it looked nice or he thought that that's 20 the way it should be.</p> <p>21 He is following a format that he was told 22 to follow in preparing these reports.</p> <p>23 Q. Do you know how -- of the four weeks 24 pre-service training, do you know how much time was</p>

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<p style="text-align: right;">Page 130</p> <p>1 dedicated to report writing?</p> <p>2 A. No. But you can find it out very easily</p> <p>3 going back to those days because they have a</p> <p>4 syllabus for the four weeks. And it will give you</p> <p>5 an hour-by-hour description of what the name of the</p> <p>6 class was, who was teaching it, and, in essence,</p> <p>7 you can determine what the substantive material was</p> <p>8 that was being offered to the new detectives.</p> <p>9 Q. Okay. Well, putting aside the format that</p> <p>10 Mr. Bedran followed and was perhaps taught at</p> <p>11 pre-service training, are you saying that the</p> <p>12 training materials that he would have received</p> <p>13 during the four weeks of detective school would</p> <p>14 have indicated to him that it was mandatory to</p> <p>15 report in a Supplementary Report if you take</p> <p>16 someone to the polygraph unit to be polygraphed?</p> <p>17 MS. KEEN: Objection. Form.</p> <p>18 THE WITNESS: Can I have it read back to me.</p> <p>19 (Whereupon, the record was</p> <p>20 read as requested.)</p> <p>21 THE WITNESS: Yes.</p> <p>22 BY MS. ITCHHAPORIA:</p> <p>23 Q. And have you -- have you seen those</p> <p>24 training materials that state that?</p>	<p style="text-align: right;">Page 132</p> <p>1 in general terms because, for example, looking at</p> <p>2 Bedran's format report here -- okay? At the very</p> <p>3 end when I told you he did the canvas -- okay?</p> <p>4 Where do you think he learned about doing</p> <p>5 canvass? He learned in detective school. He may</p> <p>6 have heard about them if he was a patrol officer</p> <p>7 because when you are a detective and you come to a</p> <p>8 scene of a crime, you know, you are working the</p> <p>9 scene, say a murder, what you do is you take a</p> <p>10 couple of uniformed officers and you have them go</p> <p>11 down the block ringing bells asking if they saw or</p> <p>12 heard anything. They can do the canvas. Okay?</p> <p>13 But here, this isn't a big area. He has</p> <p>14 got all these addresses within a baseball toss of</p> <p>15 each other. And so he does the canvas.</p> <p>16 Who told him how to do a canvas? Who told</p> <p>17 him when to do a canvas? Where did he learn that?</p> <p>18 In detective school. And then after each one of</p> <p>19 these he said heard and saw nothing. Okay?</p> <p>20 It is pretty -- pretty simple except where</p> <p>21 he got down to John Kassick. It says see interview</p> <p>22 because Kassick was part of the canvas, but Kassick</p> <p>23 gave him some information he thought that he should</p> <p>24 separate from saw and heard nothing.</p>
<p style="text-align: right;">Page 131</p> <p>1 A. I can't understand what you are saying.</p> <p>2 Q. Sorry. Have you seen those training</p> <p>3 materials that state that?</p> <p>4 A. I saw them like 38 years ago.</p> <p>5 Q. What did it -- what did it look like? So</p> <p>6 it is written on paper?</p> <p>7 A. It is written on paper.</p> <p>8 Q. Is it --</p> <p>9 A. White paper. You got the syllabus written</p> <p>10 on white paper. It has, you know, Monday, day one,</p> <p>11 okay, the first week. And then it has seven hours</p> <p>12 of classes listed and what they are receiving,</p> <p>13 criminal law, criminal procedure, report writing,</p> <p>14 interrogations, interviews, things like that.</p> <p>15 Okay?</p> <p>16 And those are some of the more generic</p> <p>17 topics that they would be taught. All detectives</p> <p>18 being taught the same across the board because, you</p> <p>19 know, you conduct investigations basically</p> <p>20 generically. They only change for a specific type</p> <p>21 of crime. Okay?</p> <p>22 So what I am saying is that those</p> <p>23 instructional materials were in existence for them</p> <p>24 to follow. I mean they have to have some direction</p>	<p style="text-align: right;">Page 133</p> <p>1 Where do you think he learned this? He</p> <p>2 learned this in report writing in detective school.</p> <p>3 These are not the things that you learn in the</p> <p>4 academy as a cadet or recruit police officer where</p> <p>5 you are taught how to write these kinds of reports</p> <p>6 because you will see in the officer's report here,</p> <p>7 for example, there is no canvas here. Okay? And</p> <p>8 there is -- there is no format here of listing, you</p> <p>9 know, who -- who witnesses are or who may have been</p> <p>10 spoken to because the detectives are doing that.</p> <p>11 They take over that function.</p> <p>12 There is a listing here of notifications</p> <p>13 that the uniformed officers made. But when you ask</p> <p>14 me about detectives and report writing, they learn</p> <p>15 that in detective school.</p> <p>16 Q. Right.</p> <p>17 MS. ITCHHAPORIA: That was entirely</p> <p>18 nonresponsive. And we are going to be here for a</p> <p>19 really long time if I keep getting long responses</p> <p>20 like that.</p> <p>21 I mean you told me he's got a hard stop at</p> <p>22 4:00. The first time I am hearing about it is his</p> <p>23 deposition. And he has just gone on and given me a</p> <p>24 response that totally did not answer my question.</p>

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<p style="text-align: right;">Page 134</p> <p>1 BY MS. ITCHHAPORIA:</p> <p>2 Q. So, again, sir, is it your testimony that</p> <p>3 when detectives were in detective school, that the</p> <p>4 syllabus indicated in writing that it was mandatory</p> <p>5 for them to document in a Supplementary Report that</p> <p>6 if they took someone to the polygraph unit to be</p> <p>7 polygraphed, that they had to write that down in a</p> <p>8 report?</p> <p>9 A. I cannot say --</p> <p>10 MS. KEEN: I am going to object --</p> <p>11 THE WITNESS: I cannot say that.</p> <p>12 MS. KEEN: Let me just make an objection to</p> <p>13 form and argumentative. And the witness is</p> <p>14 answering the questions that you chose to ask.</p> <p>15 MS. ITCHHAPORIA: Okay, I am just saying I am</p> <p>16 going to have to bring him back if you are not</p> <p>17 going to instruct him to --</p> <p>18 MS. KEEN: If you want to use -- if this is how</p> <p>19 you want to use your time for six out of</p> <p>20 seven hours of a deposition, then we can address</p> <p>21 that at the end of the deposition, whether we think</p> <p>22 it is worth bringing him back for an hour.</p> <p>23 BY MS. ITCHHAPORIA:</p> <p>24 Q. And so it is accurate to say that you</p>	<p style="text-align: right;">Page 136</p> <p>1 that, please.</p> <p>2 MS. KEEN: You want her to mark this?</p> <p>3 MS. ITCHHAPORIA: She could.</p> <p>4 (Whereupon, Brzeczek</p> <p>5 Deposition Exhibit Nos. 6 - 7</p> <p>6 were marked for identification.)</p> <p>7 BY MS. ITCHHAPORIA:</p> <p>8 Q. Mr. Brzeczek, the court reporter has</p> <p>9 handed to you Exhibit No. 6 to your deposition and</p> <p>10 Exhibit 7. Exhibit 6 is Bates marked 8107 and is</p> <p>11 the document that you referenced in paragraph 4A;</p> <p>12 correct?</p> <p>13 A. Exhibit 6 contains the same RFC number as</p> <p>14 a number I reference in 4A.</p> <p>15 Q. Where does it say on Exhibit 6 that Bedran</p> <p>16 and Rochowicz conveyed to Stout that on at least</p> <p>17 two prior occasions LaGace was known to have pulled</p> <p>18 knives on Trunko?</p> <p>19 A. Okay, at the bottom of paragraph 2 of</p> <p>20 Exhibit 6 it says S, which stands for subject,</p> <p>21 talking about LaGace, known to have pulled knives</p> <p>22 on victim. And then --</p> <p>23 Q. Well, just before we get to Exhibit 7, so</p> <p>24 there is nothing in Exhibit 6 that says that Bedran</p>
<p style="text-align: right;">Page 135</p> <p>1 can't point to any instructional materials that</p> <p>2 would have been provided during detective school</p> <p>3 that would have made that a requirement; true?</p> <p>4 MS. KEEN: Objection. Misstates his prior</p> <p>5 testimony and asked and answered and badgering.</p> <p>6 THE WITNESS: Again, yes, I cannot point to any</p> <p>7 document that says if it is mandatory, that you put</p> <p>8 in a report that someone was taken for a polygraph</p> <p>9 exam.</p> <p>10 BY MS. ITCHHAPORIA:</p> <p>11 Q. Now, you indicate also in paragraph 4A</p> <p>12 that in the pretest interview with Bedran and</p> <p>13 Rochowicz, it appears that officers conveyed to</p> <p>14 Stout that on at least two prior occasions LaGace</p> <p>15 was known to have pulled knives on Trunko. Do you</p> <p>16 see that?</p> <p>17 A. Yes.</p> <p>18 Q. Where -- what's the factual basis for that</p> <p>19 statement?</p> <p>20 A. The factual basis for that statement is my</p> <p>21 reference there is see Stout deposition at page 45</p> <p>22 and 49 to 50 and RFC-Andersen 008107. That's where</p> <p>23 I got it from.</p> <p>24 MS. ITCHHAPORIA: Let's look at this. Mark</p>	<p style="text-align: right;">Page 137</p> <p>1 and Rochowicz conveyed to Mr. Stout that the</p> <p>2 subject was known to have pulled knives on the</p> <p>3 victim on two occasions; correct?</p> <p>4 MS. KEEN: Objection. Form.</p> <p>5 THE WITNESS: Well, I can't answer that</p> <p>6 question right now because I'm referencing two</p> <p>7 documents that I base that statement on. So I have</p> <p>8 to look at both documents to see where I referenced</p> <p>9 that statement because I referenced it from</p> <p>10 RFC-Andersen 008107, which is my 6, and also the</p> <p>11 deposition. I put that in the report. So I need</p> <p>12 to look at Exhibit No. 7.</p> <p>13 BY MS. ITCHHAPORIA:</p> <p>14 Q. Well, we will get to 7. I am just saying</p> <p>15 in Exhibit 6 there is nothing in Exhibit 6 that</p> <p>16 says that Bedran and Rochowicz conveyed to Stout</p> <p>17 that LaGace had been known to pull knives on victim</p> <p>18 Trunko on two prior occasions? That's not in this</p> <p>19 document?</p> <p>20 A. Okay, let me -- so I understand the</p> <p>21 question, are you asking me is it stated in here</p> <p>22 that Bedran and Rochowicz told that to Stout?</p> <p>23 Q. No. I am asking you if in Exhibit 6 it</p> <p>24 says anywhere here that LaGace was known to have</p>

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<p style="text-align: right;">Page 138</p> <p>1 pulled knives on victim on two prior occasions?</p> <p>2 A. No, it just says one here.</p> <p>3 Q. Okay. And you agree from reviewing</p> <p>4 Mr. Stout's deposition transcript that the remark</p> <p>5 section in this Polygraph Case Report came from</p> <p>6 Mr. Bedran and Mr. Rochowicz; right?</p> <p>7 A. The remark section?</p> <p>8 Q. Right.</p> <p>9 A. The remark section is what Stout writes</p> <p>10 down based upon what Bedran and Rochowicz told him.</p> <p>11 Q. Okay.</p> <p>12 A. Okay?</p> <p>13 Q. And when you are saying subject known to</p> <p>14 have pulled knives on victim, are you relying on</p> <p>15 Mr. Stout's interpretation of his handwriting of</p> <p>16 the word "knives"?</p> <p>17 A. Can you say that again. I'm not sure I</p> <p>18 understand what you are asking.</p> <p>19 Q. Sure. Mr. Stout testified that he was</p> <p>20 relatively sure that it could be -- that that word</p> <p>21 there that we are looking at could be knives, but</p> <p>22 he said it was also possible that it could be</p> <p>23 something else.</p> <p>24 So I'm just wondering with when you put in</p>	<p style="text-align: right;">Page 140</p> <p>1 Q. So where you have written on at least two</p> <p>2 prior occasions, do you now think that that is</p> <p>3 inaccurate?</p> <p>4 A. I don't recall how I came to the</p> <p>5 conclusion that on at least two prior occasions</p> <p>6 LaGace was known to have pulled knives on Trunko.</p> <p>7 Okay.</p> <p>8 But as I said here, I only see it here in</p> <p>9 the singular. But I thought that in my report --</p> <p>10 in reading my report now that that was a really</p> <p>11 strong affirmative statement that on at least two</p> <p>12 prior occasions. So I don't have an explanation</p> <p>13 for that right now.</p> <p>14 Q. Okay. Is there any documents that you</p> <p>15 reviewed in preparation for your expert report that</p> <p>16 would indicate where you got that information from?</p> <p>17 A. Well, it says in here, you know, the</p> <p>18 pages that you gave me, 45, 49 to 50 and then the</p> <p>19 RFC number from Andersen, which is my Exhibit 6.</p> <p>20 Okay?</p> <p>21 But other than that I can't recall</p> <p>22 specifically what caused me to say in paragraph 4A</p> <p>23 of Exhibit 3 that it appears that those officers,</p> <p>24 Bedran and Stout, that at least on two prior</p>
<p style="text-align: right;">Page 139</p> <p>1 your report that the subject was known to have</p> <p>2 pulled knives, if your factual basis for saying</p> <p>3 that comes from Mr. Stout's deposition testimony of</p> <p>4 his interpretation of that sentence?</p> <p>5 A. Well, looking at this statement that he</p> <p>6 wrote in his own handwriting, I read it as S, and I</p> <p>7 interpret that to mean subject. Known to have</p> <p>8 pulled knives on V, which I take as victim. Okay?</p> <p>9 So I read that as pulled knives.</p> <p>10 Q. Okay.</p> <p>11 A. I mean I can't -- I can't testify for what</p> <p>12 Stout may have had to say about his own</p> <p>13 handwriting. But this is the way I read it.</p> <p>14 Q. Okay. So then looking at Exhibit 7, which</p> <p>15 are excerpts from Mr. Stout's deposition, included</p> <p>16 in Exhibit 7 is pages 45 and then 49 and 50, if you</p> <p>17 could point to -- from those three pages if you</p> <p>18 could point to where you got the information that</p> <p>19 the officers conveyed to Stout that on at least two</p> <p>20 prior occasions LaGace was known to have pulled</p> <p>21 knives on Trunko?</p> <p>22 A. Okay. I only see on pages that I am</p> <p>23 looking at right now, 45 and 49 and 50, that it's</p> <p>24 in the singular.</p>	<p style="text-align: right;">Page 141</p> <p>1 occasions. I don't know -- I can't tell you right</p> <p>2 now where I got that from.</p> <p>3 I would venture to say I didn't make it up</p> <p>4 because there is no reason to make that up. But I</p> <p>5 had to rely upon something. I can't tell you right</p> <p>6 now what it was.</p> <p>7 Q. Okay. If you think of it later, if you</p> <p>8 could --</p> <p>9 A. Okay.</p> <p>10 Q. -- let me know.</p> <p>11 A. Sure.</p> <p>12 Q. Then you go on to say in that</p> <p>13 paragraph that information and the identification</p> <p>14 of the individual who provided the information to</p> <p>15 the detectives is not found in any of the police</p> <p>16 reports related to the Trunko homicide</p> <p>17 investigation. What do you mean by that?</p> <p>18 A. Okay, let's go back to Exhibit 6. And</p> <p>19 Stout writes this information about what I read</p> <p>20 previously about subject known to have pulled</p> <p>21 knives on victim. That I concluded was written by</p> <p>22 Stout based upon information that Bedran and</p> <p>23 Rochowicz gave him. But at the same time I found</p> <p>24 no reports written by Bedran and/or Rochowicz or</p>

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<p style="text-align: right;">Page 142</p> <p>1 any other detective for that matter that included</p> <p>2 that same information.</p> <p>3 Q. And can you again point to any</p> <p>4 General Order or special order that would have</p> <p>5 required -- that would have mandated for</p> <p>6 Detectives Bedran and Rochowicz to document from</p> <p>7 where they obtained the information as known to</p> <p>8 have pulled knives on the victim?</p> <p>9 A. I can't point to any General Order or</p> <p>10 special order. But I would say that not only would</p> <p>11 that require them to identify the source of the</p> <p>12 information but more importantly to include the</p> <p>13 information in one of their reports. Even assuming</p> <p>14 that they didn't want to identify the source, they</p> <p>15 want to protect the source's identity.</p> <p>16 Detectives receive information that LaGace</p> <p>17 pulled a knife -- or pulled knives on the victim,</p> <p>18 that I think is substantive information that should</p> <p>19 be included in the report.</p> <p>20 Q. And you state here that that information,</p> <p>21 I think -- when you say that information, are you</p> <p>22 referring to LaGace was known to have pulled knives</p> <p>23 on Trunko?</p> <p>24 MS. KEEN: Where are you reading from?</p>	<p style="text-align: right;">Page 144</p> <p>1 investigation?</p> <p>2 A. It is. It is.</p> <p>3 Q. Okay. Prior to -- I am sorry, moving on</p> <p>4 to paragraph 5, you state that Mr. Stout conducted</p> <p>5 a pretest interview with LaGace and that LaGace</p> <p>6 provided some information to Mr. Stout. And you</p> <p>7 document what some of that information is?</p> <p>8 A. That would be information that Stout wrote</p> <p>9 down in the notes that I previously testified to</p> <p>10 that appeared to be on yellow paper.</p> <p>11 Q. And you say that this information that</p> <p>12 LaGace provided to Stout during the pretest</p> <p>13 information was nowhere to be found in any of the</p> <p>14 reports of the detectives in the Trunko homicide</p> <p>15 investigative file. Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. What's your factual basis for saying that?</p> <p>18 A. I looked through the Supplementary Reports</p> <p>19 and all the other reports in Area 3 that are</p> <p>20 prepared by the detectives and there is no</p> <p>21 information that is included in any of those</p> <p>22 reports that I saw included in the Stout notes.</p> <p>23 Q. The -- can you point to any General Order</p> <p>24 or special order, law enforcement standard that</p>
<p style="text-align: right;">Page 143</p> <p>1 MS. ITCHHAPORIA: From 4, 4A.</p> <p>2 BY MS. ITCHHAPORIA:</p> <p>3 Q. That -- you state that information,</p> <p>4 comma --</p> <p>5 A. That's correct.</p> <p>6 Q. Okay.</p> <p>7 A. The information that Stout reports here as</p> <p>8 given to him by Bedran and Rochowicz is the</p> <p>9 information that I referred to as that information.</p> <p>10 Q. But you say that information is not found</p> <p>11 in any of the police reports related to the Trunko</p> <p>12 homicide investigation; right?</p> <p>13 A. That's correct.</p> <p>14 Q. Mr. Stout's Polygraph Case Report is a</p> <p>15 police report; correct?</p> <p>16 A. Yes. What I am talking about are the</p> <p>17 Area 3 detectives' reports. Because this document</p> <p>18 right here, what you are showing me, Exhibit No. 6,</p> <p>19 that was not part of the investigative file at</p> <p>20 Area 3.</p> <p>21 Q. But here in your report when you are</p> <p>22 saying it is not found in any of the police reports</p> <p>23 it is, in fact, in the Polygraph Case Report of</p> <p>24 Mr. Stout which is related to the Trunko homicide</p>	<p style="text-align: right;">Page 145</p> <p>1 would have required the detectives back in 1980 to</p> <p>2 document in a police report information learned</p> <p>3 during a pretest interview of a subject during a</p> <p>4 polygraph exam?</p> <p>5 MS. KEEN: Objection. Form.</p> <p>6 THE WITNESS: No.</p> <p>7 BY MS. ITCHHAPORIA:</p> <p>8 Q. The information that Mr. Stout learned</p> <p>9 during LaGace's pretest interview is documented in</p> <p>10 Mr. Stout's notes; correct?</p> <p>11 A. That's correct.</p> <p>12 Q. And his notes are considered to be police</p> <p>13 reports?</p> <p>14 MS. KEEN: Objection. Form, foundation, calls</p> <p>15 for a legal conclusion.</p> <p>16 THE WITNESS: They are not.</p> <p>17 BY MS. ITCHHAPORIA:</p> <p>18 Q. Why do you say that?</p> <p>19 A. Well, same reason that pointed out that</p> <p>20 Exhibit No. 6 shows that it's a Polygraph Case</p> <p>21 Report, Criminalistics Division, Chicago police.</p> <p>22 It is identified as a police report.</p> <p>23 A note is not a police report. That's why</p> <p>24 we -- that's why we actually came up with the</p>

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<p style="text-align: right;">Page 146</p> <p>1 standardized form, an official department report 2 called the General Progress Report after the Palmer 3 case. 4 But a note is not an official report. 5 That's why testimony that you will have from 6 detectives when they talk about they take notes in 7 the course of their investigation and then they 8 transfer those notes to a Supplementary Report 9 because that makes it official. 10 Q. Okay. You testified I think earlier that 11 the Polygraph Case Report was not included in the 12 investigative file; is that correct? 13 A. That's correct. 14 Q. And what's your factual basis for saying 15 that? 16 A. Because any time, and even thereafter, the 17 investigative file in the areas did not contain 18 criminalistics reports except for reports like drug 19 testing -- and when I say drug testing, I am 20 talking about get a quantity of white powder and it 21 was tested for cocaine or heroin, or there may be a 22 lab report on fingerprints. There may be a lab 23 report on blood. But these kinds of reports never 24 made it to the investigative file. This report was</p>	<p style="text-align: right;">Page 148</p> <p>1 by corner where she, victim, lived. Said looking 2 for her. Said didn't see her -- 3 A. Yes. 4 Q. -- correct? 5 A. Yes. 6 Q. So it was conveyed to Mr. Stout from 7 Bedran and Rochowicz that Mr. LaGace did not see 8 Cathy Trunko on the night of her murder; correct? 9 A. Yes. 10 Q. Cathy Trunko and the -- again, the 11 information, I think you -- we talked about this 12 earlier, in the Remark section of this Polygraph 13 Case Report, Mr. Stout testified he got that 14 information from Bedran and Rochowicz; correct? 15 A. That's correct. 16 Q. Is there -- can you cite to any 17 General Order, standard, special order or law 18 enforcement standard that states that once a 19 detective provides information to another police 20 officer, that that detective is also responsible 21 for documenting the same information in another 22 police report? 23 MS. KEEN: Objection. Form, incomplete 24 hypothetical.</p>
<p style="text-align: right;">Page 147</p> <p>1 always maintained in the criminalistics division. 2 MS. KEEN: Can we go off the record for one 3 second? 4 MS. ITCHHAPORIA: Oh. All right. We will take 5 a quick break. 6 THE VIDEOGRAPHER: We are going off the video 7 record at 1:46 p.m. 8 (Recess taken.) 9 THE VIDEOGRAPHER: We are going back on the 10 video record at 2:09 p.m. 11 BY MS. ITCHHAPORIA: 12 Q. Looking at Exhibit 6, Polygraph Case 13 Report, Mr. Stout in the Remark section also 14 included some other information obtained from 15 Detectives Bedran and Rochowicz in accord with his 16 deposition testimony. Do you remember reading that 17 in his deposition? 18 A. I think I do remember reading in the 19 deposition. 20 Q. And in this Exhibit 6 it says that subject 21 known victim two days. Do you see that? 22 A. Yes. 23 Q. And Mr. Stout also documented in the 24 report that LaGace takes a friend's car and drives</p>	<p style="text-align: right;">Page 149</p> <p>1 THE WITNESS: While it can point to any 2 General Order or special order or what you call law 3 enforcement standard, repeat my testimony from 4 before, that the standard operating procedural 5 manual of the Criminal Investigation Division at 6 that time was, in fact, considered a department 7 directive which required compliance. 8 Training materials did not come to the 9 level of a special order or General Order, but they 10 could be enforced for failure to comply with the 11 procedures set forth in training materials. So, 12 again, we are talking about what you put in the 13 report and what you can leave out of a report 14 depending upon whether or not it is pertinent 15 information. 16 BY MS. ITCHHAPORIA: 17 Q. Did any of those directives say that once 18 information has been relayed from one police 19 officer to another and that police officer is going 20 to document that in a police report, that the other 21 officer is also responsible for documenting the 22 same information in another police report? 23 MS. KEEN: Objection. Assumes facts not in 24 evidence. Form and incomplete hypothetical.</p>

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<p style="text-align: right;">Page 150</p> <p>1 THE WITNESS: As I understand your question, is</p> <p>2 the provider of the information and the recipient</p> <p>3 of the information both required to submit reports?</p> <p>4 BY MS. ITCHHAPORIA:</p> <p>5 Q. Right. Is there any directive that you</p> <p>6 can point to that says that?</p> <p>7 MS. KEEN: Objection. Incomplete hypothetical.</p> <p>8 THE WITNESS: Say again with the detectives</p> <p>9 conducting the investigation, that they would</p> <p>10 incorporate in their reports pertinent information</p> <p>11 that they received. And without saying it's a</p> <p>12 General Order or a special order, it's all part of</p> <p>13 the realm of the directives concerning the conduct</p> <p>14 of detectives. And that could be training</p> <p>15 materials, standard operating procedural manual.</p> <p>16 It could be a Detective Division order which is not</p> <p>17 applicable to anybody else outside the</p> <p>18 Detective Division.</p> <p>19 So there are and always have been</p> <p>20 guidelines for the proper reporting of events in an</p> <p>21 investigation.</p> <p>22 BY MS. ITCHHAPORIA:</p> <p>23 Q. Right. But is there any department</p> <p>24 directive that you can think of that was in effect</p>	<p style="text-align: right;">Page 152</p> <p>1 Q. No. --</p> <p>2 A. When you asked me about -- No. 6 is</p> <p>3 the --</p> <p>4 Q. Exhibit No. 6?</p> <p>5 A. Yeah, Exhibit No. 6. You asked me</p> <p>6 about -- when I said on -- on more than -- on at</p> <p>7 least two occasions about --</p> <p>8 Q. Subject known to have pulled knives on</p> <p>9 victim?</p> <p>10 A. Yes, pulled knives on victim. I sat here</p> <p>11 during the break and I thought about that. My</p> <p>12 experience, someone in possession of a knife pulls</p> <p>13 it on another person, it's usually a single knife.</p> <p>14 People don't walk around with multiple knives in</p> <p>15 their hands and threaten people with multiple</p> <p>16 knives. Usually it is a single knife.</p> <p>17 And I took the plural of knife here,</p> <p>18 knives, not to mean multiple knives at one attack</p> <p>19 or one threat but more than one threat because it's</p> <p>20 more than one knife. Does that make sense to you?</p> <p>21 Q. Okay. So that's -- it was an assumption</p> <p>22 that you made though that because it says knives,</p> <p>23 that it occurred on two separate occasions?</p> <p>24 A. Two or more. Two or more. Okay? As soon</p>
<p style="text-align: right;">Page 151</p> <p>1 in 1980 that says two police officers that have the</p> <p>2 same information, both officers are required to</p> <p>3 document that in a police report?</p> <p>4 MS. KEEN: It's an objection to incomplete</p> <p>5 hypothetical and form.</p> <p>6 THE WITNESS: I cannot say that there is any</p> <p>7 department directive as you describe it. I think</p> <p>8 that my definition of directive is more</p> <p>9 encompassing than yours.</p> <p>10 I am not limiting it to special orders or</p> <p>11 general orders. I am talking about anything that</p> <p>12 could be written and affect a detective's conduct</p> <p>13 or behavior in the performance of his duties. And</p> <p>14 whether or not there was a directive, using that</p> <p>15 term in the broadest sense, whether or not there</p> <p>16 was a directive saying that Officer A gives</p> <p>17 information to Officer B, that both of them have to</p> <p>18 include it in their respective reports, I cannot</p> <p>19 answer that question.</p> <p>20 BY MS. ITCHHAPORIA:</p> <p>21 Q. Okay.</p> <p>22 A. Can we just go back to No. 6 for a moment?</p> <p>23 You asked me to clear something up for you if I</p> <p>24 remember.</p>	<p style="text-align: right;">Page 153</p> <p>1 as we got to the plural, I saw the word "knives."</p> <p>2 And I thought about it. The only explanation that</p> <p>3 I have for my thinking at that time is that my</p> <p>4 experience knives, whether they are used as threats</p> <p>5 or actually used to inflict harm on someone, single</p> <p>6 instrument.</p> <p>7 They put knives in here. I'm taking that</p> <p>8 as a single instrument on more than one occasion.</p> <p>9 Q. And the factual basis for saying that then</p> <p>10 is based on your experience?</p> <p>11 A. Based on my experience, yes.</p> <p>12 Q. So in your report you focused on -- in</p> <p>13 paragraph 4A that the information that LaGace was</p> <p>14 known to have pulled knives on Trunko is not found</p> <p>15 in any police reports. Why did you focus in on</p> <p>16 that particular statement as opposed to the other</p> <p>17 statements that are in Mr. Stout's Polygraph Case</p> <p>18 Report such as LaGace went to the corner where she</p> <p>19 lived, didn't see her and that he had only known</p> <p>20 her for two days?</p> <p>21 A. The fundamental answer to that question is</p> <p>22 Cathy Trunko was stabbed to death.</p> <p>23 Q. So can you expound on that a little bit</p> <p>24 more?</p>

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<p style="text-align: right;">Page 154</p> <p>1 A. That's why I focused on knives. That I 2 thought was the most important piece of information 3 that the detectives gave Stout that -- about the 4 knives. And I'm thinking that even with a 5 rudimentary fundamental education, he would know 6 the difference that Stout is. That is, he knows 7 the difference between knife and knives especially 8 since there is a change in letters in the plural. 9 And because she was stabbed to death, the 10 history of LaGace threatening her with knives or 11 whatever he did with the knives, however they 12 described it, knives, stabbing, that's important 13 information. 14 Q. I want to just draw your attention to 15 paragraph -- I'm sorry, page 49 of Exhibit 7. 16 A. Okay. Page 49? 17 Q. Right. If you just read lines 8 through 18 22 to yourself, and then let me know when you are 19 done. 20 A. I read that. 21 Q. During Mr. Stout's deposition you could 22 see that he is agreeing when a question is being 23 posed by plaintiff's counsel that he documented in 24 his report that the subject was known to pull a</p>	<p style="text-align: right;">Page 156</p> <p>1 says pull a knife. And here he is talking about 2 knives. So -- 3 BY MS. ITCHHAPORIA: 4 Q. So you don't think it's possible that he 5 was using -- that Mr. Stout is using the word 6 "knife" and "knives" interchangeably? 7 A. As far as you are asking me the question 8 possible, anything is possible. I mean I don't 9 know what was going on in his mind or how he was 10 using those words. I'm just saying that this -- 11 this report right here -- 12 MS. KEEN: Exhibit 6? 13 THE WITNESS: Exhibit 6, okay, is -- maybe for 14 lack of a better term to describe it by me, this is 15 written as part of a res gestae of the information 16 as he is receiving it, the right part of that, I 17 think, of the meeting with Bedran and Rochowicz. 18 Now, we have someone else using the word 19 "knife." He didn't use it initially. He didn't -- 20 he did not initiate that. And I know he didn't 21 make any correction to it. But even though he may 22 have or may not have been familiar with this report 23 of this, Exhibit 6, but that's -- that's the only 24 thing that I can attribute that what I previously</p>
<p style="text-align: right;">Page 155</p> <p>1 knife in the singular. Do you see that? 2 A. I do. 3 Q. So would you -- the fact that Mr. Stout in 4 his deposition is going -- you know, using the word 5 "knife" singularly but in his report has knives, 6 does that change your opinion in any way? 7 MS. KEEN: Objection. Misstates the evidence 8 in the record and form. 9 THE WITNESS: No. It doesn't -- it doesn't 10 change my opinion because the person who propounded 11 the question is the one who used the word "knife" 12 first. I know Stout didn't make any corrections, 13 knife versus knives. 14 I mean but the person who propounded the 15 question, you know, in the way I look at it, it is 16 a leading question. So the testimony is right, 17 pulled the knife on the victim. And it says I do. 18 Okay? 19 Now, that deposition was March of 2017. I 20 know somewhere he even claimed having trouble 21 reading his own notes. But the notes were written 22 on the 21st of January 1980. So we are talking 23 about 37 years and 2 months later when you bring 24 this up about the person propounding the question</p>	<p style="text-align: right;">Page 157</p> <p>1 described as a fairly strong, affirmative statement 2 on at least two occasions by taking the word 3 "knives." 4 BY MS. ITCHHAPORIA: 5 Q. Can you point to any General Order, 6 special order, or law enforcement standard or 7 applying the broad definition that you provided for 8 directives that states that it's not a sufficient 9 discharge of a detective's obligation to disclose 10 exculpatory information after the detective shares 11 the information with another police officer who 12 does document that information in a police report? 13 MS. KEEN: Objection to the extent it calls for 14 a legal opinion. 15 THE WITNESS: I tried to follow your question. 16 Are you asking if the officer or detective who is 17 sharing the information, so the one providing the 18 information to another police officer, does that 19 officer have to document the fact that he shared 20 the information and what the information was? Is 21 that your question? 22 BY MS. ITCHHAPORIA: 23 Q. No. I think we already covered this. 24 My question is can you point to any</p>

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<p style="text-align: right;">Page 158</p> <p>1 orders, directives, law enforcement standards that 2 says it's not sufficient when a detective discloses 3 exculpatory information to a police officer who 4 then does, in fact, record that information in a 5 police report?</p> <p>6 MS. KEEN: Objection. Incomplete hypothetical, 7 form, asked and answered and -- that's it.</p> <p>8 THE WITNESS: Again, I'm not sure I understand 9 the second part of the question. I understand what 10 you are asking about a directive's existence. But 11 if you can just tell me about the second part of 12 disclosing exculpatory information. I'm not sure I 13 follow you.</p> <p>14 BY MS. ITCHHAPORIA:</p> <p>15 Q. Sure. Is there -- is there a directive 16 that says or General Order, whatever, law 17 enforcement standard that it's not sufficient 18 enough of a detective's discharge to disclose 19 exculpatory information if they share that 20 information with another police officer who does, 21 in fact, document that information in a police 22 report?</p> <p>23 MS. KEEN: Same objection.</p> <p>24 THE WITNESS: I don't -- I don't think that I</p>	<p style="text-align: right;">Page 160</p> <p>1 Q. Okay. Was the focus in your -- was the 2 focus of your opinions in this case only to look at 3 the detectives -- strike that.</p> <p>4 Was the focus of your opinions in this 5 case to look at the report writing aspect?</p> <p>6 A. The focus of my opinion is the conduct of 7 the detectives in either the recording or 8 memorializing information that they had that they 9 acquired during the course of the investigation. 10 And that subsequently would either contribute to 11 the identification of the person responsible or 12 exonerate a potential suspect.</p> <p>13 And eventually that information goes to 14 the prosecutor, you know, in compliance with 15 Brady v. Maryland. But the prosecutor doesn't get 16 the information if it is not contained in the 17 reports.</p> <p>18 So -- and my focus is on whether or not 19 there was proper disclosure of information in the 20 report writing by the detectives. That's my 21 primary focus on is because there are events that 22 are happening that -- and I'm not focused on 23 Andersen at all.</p> <p>24 But when you get to exculpatory, there</p>
<p style="text-align: right;">Page 159</p> <p>1 can point to any specific directive to answer your 2 question. But the -- the purpose of sharing 3 information is to acquaint more people with the 4 expertise in that area of investigation to 5 participate, so to speak.</p> <p>6 The issue is did the detective document, 7 record, memorialize the information that he gave to 8 someone else or he received from someone else. I 9 think that's the whole essence right there.</p> <p>10 BY MS. ITCHHAPORIA:</p> <p>11 Q. Do you agree that LaGace -- the fact that 12 LaGace did not see Trunko on the night of the 13 murder, that that is not exculpatory of 14 Mr. Andersen?</p> <p>15 MS. KEEN: Objection. Assumes facts not in 16 evidence. It is an incomplete hypothetical.</p> <p>17 THE WITNESS: It is not exculpatory?</p> <p>18 BY MS. ITCHHAPORIA:</p> <p>19 Q. Right.</p> <p>20 A. Exculpatory as to LaGace or as to 21 Andersen?</p> <p>22 Q. As to Andersen.</p> <p>23 A. I don't have an opinion on that. I really 24 don't.</p>	<p style="text-align: right;">Page 161</p> <p>1 is -- there are events happening, information, 2 facts that appear to be exculpatory for Andersen 3 that were not disclosed. Not even recorded.</p> <p>4 You know, it wasn't that they were put in 5 the report and the report was hidden. They were 6 never written in the report that I know of.</p> <p>7 Q. Did you -- in the materials that you 8 reviewed, was there anything that you read that 9 indicated that Detective Higgins was aware that 10 Mr. LaGace was taken to be polygraphed on 11 January 20th, 1980?</p> <p>12 A. Before when I testified about Higgins, I 13 told you about a focus on several sections of the 14 deposition. And I read those only in preparation 15 of my report. Subsequently just breezed through 16 the deposition. Okay? The whole deposition, you 17 know, end to end.</p> <p>18 Let me see. Find out if -- if Higgins 19 knew that they took them to -- took LaGace to the 20 polygraph examiner?</p> <p>21 Q. Right.</p> <p>22 A. Before they took him?</p> <p>23 Q. Or at any point during the investigation.</p> <p>24 A. I do recall something where Higgins says</p>

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<p style="text-align: right;">Page 162</p> <p>1 he thinks that the polygraph is useless. Do you 2 remember that in his testimony? So I have to say 3 now that Higgins had to become aware of the fact if 4 the polygraph was brought up and he is answering 5 questions about his opinion, it being useless, and 6 talked about he didn't know why -- now it is coming 7 back to me. He didn't know why they took LaGace 8 for a polygraph exam. Was it to show that he was 9 lying about something or was he a suspect. I 10 remember he was talking about those things. 11 So when he knew about that, I don't know. 12 But he apparently knew about it. And he could have 13 known about it from his preparation for the 14 deposition because it's in his deposition and he 15 did testify that he did some preparation for the 16 deposition. 17 So I don't know at what point, you know, 18 in time was he aware of they are going to the 19 polygraph exam. But he did, in fact, say that they 20 took them. He didn't know why. He speculated why. 21 And that was it. 22 Q. Your testimony is not that Mr. Higgins was 23 aware during the course of the Trunko homicide 24 investigation that he knew that LaGace was being</p>	<p style="text-align: right;">Page 164</p> <p>1 slip. But somebody had to be assigned to it. They 2 just do not have a murder investigation going on 3 with nobody responsible for it. Because if nobody 4 is generating reports, then who are you going to 5 point the finger at? So somebody has to be 6 responsible for that investigation. 7 And based upon the fact that he did the 8 interrogation and I think he also said that there 9 was no physical evidence tying anybody into the 10 crime, I kind of got the impression that he was the 11 lead investigator in the case. 12 Q. Are you aware that's not part of your 13 expert opinions in this case? You were not asked 14 to render any opinions about whether or not 15 Mr. Higgins was, in fact, the lead detective; is 16 that correct? 17 MS. KEEN: Objection. His -- he is answering 18 the questions that you are asking him. And this is 19 a part of his -- 20 MS. ITCHHAPORIA: That's a speaking objection, 21 Roshna. 22 MS. KEEN: I am making a record. 23 MS. ITCHHAPORIA: Speaking objection. 24 MS. KEEN: Don't interrupt me, please.</p>
<p style="text-align: right;">Page 163</p> <p>1 taken to get polygraphed? 2 MS. KEEN: Objection. Misstates his testimony. 3 THE WITNESS: That he knew that they were 4 taking him for polygraph? 5 BY MS. ITCHHAPORIA: 6 Q. Right. 7 A. I can't say that when they took him he 8 knew or didn't know. They took him at 6:15 in the 9 evening. I think Higgins was working days as I 10 recall. But one of the things I think that 11 bothered me that I didn't -- now that you ask me 12 about it, but, you know, I didn't address it in 13 my -- in my report because I was not asked to focus 14 on that area. 15 But he said that everybody just does 16 things on an investigation. And, you know, reports 17 go into the investigative file. 18 And he talked about the fact that there is 19 no sufficient thing as a lead detective. Well, I 20 can tell you back in 19 -- January 1980 there were 21 case assignment slips that I talked about before 22 and some detective had to be assigned to the Trunko 23 murder. 24 I have never seen that case assignment</p>	<p style="text-align: right;">Page 165</p> <p>1 MS. ITCHHAPORIA: That's a speaking objection. 2 So I will interrupt -- 3 MS. KEEN: You can say that after I am done 4 making -- 5 MS. ITCHHAPORIA: No. Because now you are 6 coaching the witness. That's what your speaking 7 objection is. 8 MS. KEEN: I'm not coaching a witness. I am 9 making a record here. You are trying to -- 10 MS. ITCHHAPORIA: I disagree. 11 MS. KEEN: -- claw back disclosures. And I'm 12 saying for the record he is answering the questions 13 that you are asking him at his expert deposition 14 pursuant to his Rule 26(a)(2) disclosure. 15 MS. ITCHHAPORIA: Well, I would move to strike 16 that because it is absolutely nonresponsive to the 17 question that I asked. 18 BY MS. ITCHHAPORIA: 19 Q. Mr. Higgins testified at his deposition 20 in this case, on page 220 he was asked, "And just 21 to be clear, if in -- well, did you have any 22 knowledge back in January 1980 or prior to 23 January 24th, 1980, that Robert LaGace had been 24 polygraphed by John Stout?" "I did not know." Did</p>

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<p style="text-align: right;">Page 166</p> <p>1 you disregard that testimony in order to render</p> <p>2 your opinions in this case?</p> <p>3 A. Did I disregard?</p> <p>4 Q. That testimony of Mr. Higgins?</p> <p>5 A. I wasn't reading that testimony when I</p> <p>6 prepared my opinion in this case. As I told you, I</p> <p>7 was only asked to look at three sections, you know,</p> <p>8 small sections, a few pages in Higgins's testimony,</p> <p>9 deposition testimony for the preparation of my</p> <p>10 report.</p> <p>11 Q. Okay. So other than -- other than those</p> <p>12 selected portions, the three selected portions, you</p> <p>13 did not rely on any other portion of Mr. --</p> <p>14 A. No.</p> <p>15 Q. -- Higgins's deposition testimony in order</p> <p>16 to render your opinions in this case; is that</p> <p>17 correct?</p> <p>18 A. That's correct.</p> <p>19 Q. Okay.</p> <p>20 A. My opinion is here -- you asked me today</p> <p>21 about Higgins, knowing about this. And that wasn't</p> <p>22 the sections that I was asked to look at. But I</p> <p>23 told you that I read it on my own subsequent to my</p> <p>24 submitting the report. And I remember his saying</p>	<p style="text-align: right;">Page 168</p> <p>1 A. That's correct.</p> <p>2 Q. In paragraph 6 of your report on page 2,</p> <p>3 you state that LaGace submitted to a polygraph exam</p> <p>4 but was deemed to be an unfit subject as the</p> <p>5 examiner could not establish standards for LaGace</p> <p>6 and was of the opinion that LaGace was not</p> <p>7 purposely trying to defeat the purpose or objective</p> <p>8 of the polygraph exam. Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. When you say was deemed to be an unfit</p> <p>11 subject, who was deeming him to be unfit?</p> <p>12 A. Stout.</p> <p>13 Q. And did you get that -- did you get that</p> <p>14 from Mr. Stout's deposition testimony or his notes</p> <p>15 or his Case Report?</p> <p>16 A. I said see Stout deposition at 60 to 62.</p> <p>17 Q. Well, what I am asking you is the term</p> <p>18 "unfit subject." Is that -- are those your words</p> <p>19 or Mr. Stout's words?</p> <p>20 A. I know I used it. So I'm claiming it.</p> <p>21 But I don't know if he used it. I do recall that</p> <p>22 in the pre-polygraph examination, they tried to</p> <p>23 develop some standards on him and they couldn't do</p> <p>24 it. He was upsetting the measuring devices on the</p>
<p style="text-align: right;">Page 167</p> <p>1 that he did not know that they took him for a</p> <p>2 polygraph exam.</p> <p>3 Q. In the three sections that you reviewed of</p> <p>4 Mr. Higgins's deposition testimony that you relied</p> <p>5 on for your expert opinion in this case, was there</p> <p>6 anything in there that indicated that Mr. Higgins</p> <p>7 was aware during the Trunko homicide investigation</p> <p>8 that LaGace had been taken for a polygraph?</p> <p>9 A. Not that I recall, no.</p> <p>10 Q. And you did not review the deposition</p> <p>11 transcript of Daniel McWeeny; correct?</p> <p>12 A. No, I did not.</p> <p>13 Q. And you did not review the deposition</p> <p>14 transcript of John Olson; correct?</p> <p>15 A. No, I did not.</p> <p>16 Q. And you did not review any of the</p> <p>17 transcripts from any of the criminal proceedings</p> <p>18 relating to Mr. Andersen; correct?</p> <p>19 A. No, I did not.</p> <p>20 Q. Okay. So you can't say one way or another</p> <p>21 if any of those detectives that I just talked about</p> <p>22 had information about whether or not Mr. LaGace was</p> <p>23 taken for a polygraph during the Trunko homicide</p> <p>24 investigation?</p>	<p style="text-align: right;">Page 169</p> <p>1 polygraph.</p> <p>2 And so -- and he also said that he did not</p> <p>3 think that he was purposefully trying to defeat or</p> <p>4 undermine the objective of the polygraph.</p> <p>5 So if you had someone with say palsy in</p> <p>6 their extremities, for example, or shaking all the</p> <p>7 time, I think that that would be a person who would</p> <p>8 be unfit for a polygraph. In other words, they</p> <p>9 don't qualify to have those physical measurements</p> <p>10 taken because the palsy interferes with the ability</p> <p>11 of the machine to measure it. So that's why it</p> <p>12 would be unfit. That's why I used that word.</p> <p>13 Q. Okay. What's your factual basis for</p> <p>14 saying that Mr. LaGace was an unfit subject?</p> <p>15 A. That Stout could not establish standards</p> <p>16 for him because -- and Stout says he wasn't trying</p> <p>17 to do this on purpose. LaGace was not trying to do</p> <p>18 it on purpose to defeat the polygraph. He just --</p> <p>19 some people cannot be polygraphed.</p> <p>20 Q. When you are talking about standards, are</p> <p>21 you talking about Mr. LaGace's physiological</p> <p>22 responses to the relevant and irrelevant questions</p> <p>23 that he was being posed to during the pretest? Or</p> <p>24 are you talking about during the actual four</p>

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<p style="text-align: right;">Page 170</p> <p>1 components of the test when he is done -- doing the</p> <p>2 stim and the straight through and they are</p> <p>3 measuring his --</p> <p>4 A. I think it was --</p> <p>5 Q. -- blood pressure?</p> <p>6 A. I think it was the physiological</p> <p>7 measurements that -- that Stout identified that you</p> <p>8 can't get standards. So that's why -- when I say</p> <p>9 unfit, I'm not attributing anything untoward toward</p> <p>10 LaGace. It's just that somehow he doesn't have the</p> <p>11 ability to be measured on a polygraph. Okay?</p> <p>12 That's why he is not fit to do a polygraph.</p> <p>13 Q. During your employment with CPD, were you</p> <p>14 ever trained in administering polygraphs?</p> <p>15 A. No.</p> <p>16 Q. Have you ever administered a polygraph?</p> <p>17 A. No.</p> <p>18 Q. Back in 1980 through 1982 do you know what</p> <p>19 the law was in Illinois as far as the admissibility</p> <p>20 of polygraph in court?</p> <p>21 A. In Illinois at the time?</p> <p>22 Q. Right.</p> <p>23 A. Not admissible.</p> <p>24 Q. Did --</p>	<p style="text-align: right;">Page 172</p> <p>1 Criminalistics Department Lab Report; correct?</p> <p>2 A. I mean if you show me the report, I can</p> <p>3 identify it as such. But I just don't recall where</p> <p>4 he documented.</p> <p>5 Q. I am going to show the witness</p> <p>6 RFC-Andersen 85.</p> <p>7 A. Okay. Okay. That's -- that's the Chicago</p> <p>8 Police Department Laboratory Report.</p> <p>9 Q. Did you review this report in preparation</p> <p>10 for your expert opinion in this matter?</p> <p>11 A. I think I did. I think it was part of the</p> <p>12 documents -- part of the documents that were given</p> <p>13 to me.</p> <p>14 Q. And the -- this report that Mr. Stout</p> <p>15 prepared, it is an official Chicago police report;</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 MS. KEEN: Objection. Form.</p> <p>19 THE WITNESS: Yes.</p> <p>20 BY MS. ITCHHAPORIA:</p> <p>21 Q. During your career at CPD, did you ever</p> <p>22 have an occasion to take an individual to the</p> <p>23 polygraph unit for a polygraph exam?</p> <p>24 A. Not that I recall. You mentioned</p>
<p style="text-align: right;">Page 171</p> <p>1 A. In any proceeding. That is including</p> <p>2 criminal.</p> <p>3 Q. And this fact that you have included here</p> <p>4 in No. 6, how is that relevant to your overall</p> <p>5 opinion about report writing?</p> <p>6 A. No. 6?</p> <p>7 Q. Right.</p> <p>8 A. Well, Bedran and Rochowicz took LaGace</p> <p>9 down for a polygraph exam. It could not be</p> <p>10 conducted. They didn't report that they took him</p> <p>11 down. If they did report that they took him down,</p> <p>12 they would have to report also that he could not be</p> <p>13 tested for the reasons that Stout said.</p> <p>14 That to me is all important. It is all</p> <p>15 tied into why did you take him there in the first</p> <p>16 place.</p> <p>17 Q. Mr. Stout did note in his -- in a report</p> <p>18 that Mr. LaGace's responsive -- responses were</p> <p>19 erratic during the polygraph; correct?</p> <p>20 MS. KEEN: Objection. Form.</p> <p>21 THE WITNESS: I think that he said that, yes.</p> <p>22 BY MS. ITCHHAPORIA:</p> <p>23 Q. And -- let me just find that. Mr. Stout</p> <p>24 documented that in a Chicago Police Department</p>	<p style="text-align: right;">Page 173</p> <p>1 polygraph unit, probably not because for internal</p> <p>2 investigations we used an outside contractor. So</p> <p>3 that would not answer your question for the</p> <p>4 polygraph.</p> <p>5 Q. In paragraph 7 here you concluded some</p> <p>6 information about LaGace knowing James Clark was</p> <p>7 Trunko's boyfriend. LaGace said that on Friday</p> <p>8 night in another bar Trunko showed/taught LaGace</p> <p>9 some card tricks and that she was pretty good at</p> <p>10 it. Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. And then you got some cites to Stout's</p> <p>13 deposition and RFC-Andersen at 8109. Do you see</p> <p>14 that?</p> <p>15 A. Yes.</p> <p>16 Q. Where are you getting the information that</p> <p>17 James Clark was Trunko's boyfriend?</p> <p>18 A. I think that LaGace told that to Stout and</p> <p>19 Stout noted in his notes on the yellow paper.</p> <p>20 Q. Okay. All right, we will circle back</p> <p>21 to that because I have incomplete on an entire</p> <p>22 document.</p> <p>23 (Whereupon, Ms. Benjamin exits</p> <p>24 at 2:46 o'clock p.m.)</p>

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<p style="text-align: right;">Page 174</p> <p>1 BY MS. ITCHHAPORIA:</p> <p>2 Q. I just want to go back to something you</p> <p>3 said on paragraph 5. There in the middle you</p> <p>4 state -- you are talking about some of the</p> <p>5 information that Stout learned during the pretest</p> <p>6 interview. And you say, "Among this information</p> <p>7 was while or shortly after Diaz was on the phone</p> <p>8 with Trunko and offering to pick Trunko up with a</p> <p>9 car, LaGace drove over to the area of Trunko's home</p> <p>10 but was unable to find her." Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Why did you say "while or shortly after</p> <p>13 Diaz was on the phone"?</p> <p>14 A. As far as when LaGace left to go pick her</p> <p>15 up?</p> <p>16 Q. Correct.</p> <p>17 (Whereupon, Ms. Benjamin</p> <p>18 entered at 2:47 o'clock p.m.)</p> <p>19 THE WITNESS: I wasn't sure of his exact time</p> <p>20 of his departure whether -- was Diaz and Trunko</p> <p>21 still on the phone when he left or did the phone</p> <p>22 call end. But I wanted to put LaGace's departure</p> <p>23 from the bar as close as possible to that phone</p> <p>24 call.</p>	<p style="text-align: right;">Page 176</p> <p>1 BY MS. ITCHHAPORIA:</p> <p>2 Q. Right. But did you review Miss Diaz's</p> <p>3 testimony where she says she continued the</p> <p>4 conversation for at least five minutes more with</p> <p>5 Miss Trunko after Mr. LaGace had left?</p> <p>6 A. After he left the bar.</p> <p>7 Q. Correct.</p> <p>8 A. But we don't know how far he got going to</p> <p>9 pick up Trunko. You know, that I don't know.</p> <p>10 Q. Right. But I'm saying -- my question is</p> <p>11 did you review the portion of her deposition</p> <p>12 testimony where she testified she continued talking</p> <p>13 to Miss Trunko even after LaGace had left</p> <p>14 Dot's Tavern?</p> <p>15 A. I think I did.</p> <p>16 Q. But you are saying that you put in here</p> <p>17 shortly after because you are not sure how far</p> <p>18 Mr. Trunko got -- how far Mr. LaGace got to finding</p> <p>19 Trunko?</p> <p>20 MS. KEEN: Objection. Asked and answered.</p> <p>21 THE WITNESS: That's right.</p> <p>22 BY MS. ITCHHAPORIA:</p> <p>23 Q. Was there anything that you read in the</p> <p>24 materials that you have reviewed that indicated</p>
<p style="text-align: right;">Page 175</p> <p>1 BY MS. ITCHHAPORIA:</p> <p>2 Q. Did you -- when you reviewed the selected</p> <p>3 portions of Miss Diaz's testimony, did you review</p> <p>4 the portion where she stated that she was on the</p> <p>5 phone with Cathy Trunko even after Mr. LaGace left</p> <p>6 Dot's Tavern?</p> <p>7 MS. KEEN: Objection to form. Mischaracterizes</p> <p>8 his prior testimony.</p> <p>9 THE WITNESS: I think I do which would make it</p> <p>10 during the phone conversation, not shortly after.</p> <p>11 BY MS. ITCHHAPORIA:</p> <p>12 Q. All right. So I am just wondering why you</p> <p>13 put in here shortly after. What's your factual</p> <p>14 basis for saying that?</p> <p>15 A. Well, again --</p> <p>16 MS. KEEN: Objection. Asked and answered.</p> <p>17 THE WITNESS: Again, he left. And there is no</p> <p>18 indication that Diaz and Trunko stayed on the phone</p> <p>19 for any length of time. So Diaz could have ended</p> <p>20 that phone conversation before Trunko -- before</p> <p>21 LaGace even got in the car to go pick up Trunko.</p> <p>22 So it is just, again, part of the</p> <p>23 res gestae of the phone call and LaGace's leaving.</p> <p>24</p>	<p style="text-align: right;">Page 177</p> <p>1 that on January 19th, 1980, when LaGace and Diaz</p> <p>2 were at Dot's Tavern that LaGace knew where Trunko</p> <p>3 lived?</p> <p>4 A. I seem to think that he did know where she</p> <p>5 lived. And it may be based on the fact that he</p> <p>6 didn't have to get any information from either Diaz</p> <p>7 or Trunko as to where to go to her home. I got the</p> <p>8 impression that he did know where she lived.</p> <p>9 Q. Was there any -- from the materials that</p> <p>10 you reviewed anything that indicated that</p> <p>11 Mr. LaGace on January 19th, 1980, actually drove to</p> <p>12 Trunko's home located at 5006 South Paulina?</p> <p>13 A. I don't recall that specific location.</p> <p>14 But I remember that there was some material I read</p> <p>15 where he came back to Dot's Tavern and was</p> <p>16 breathing heavy and seemed to be anxious or</p> <p>17 something like that, you know.</p> <p>18 He did not -- he did not appear to be from</p> <p>19 the testimony as calm as he was when he left or at</p> <p>20 least there was more indicators when he came back.</p> <p>21 Q. Miss Diaz -- in the selected portions of</p> <p>22 Miss Diaz's testimony that you reviewed, did you</p> <p>23 look at the portion where she stated that when</p> <p>24 Mr. LaGace returned to Dot's Tavern, he asked her</p>

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<p style="text-align: right;">Page 178</p> <p>1 where Trunko lived?</p> <p>2 MS. KEEN: Objection. Mischaracterizes his</p> <p>3 testimony repeatedly. He said he eyeballed every</p> <p>4 page. So form and mischaracterizes his testimony,</p> <p>5 argumentative.</p> <p>6 THE WITNESS: No, I don't -- I don't think I</p> <p>7 recall reading that. I think that that would have</p> <p>8 stuck in my mind if I did read it because if he</p> <p>9 takes off to go pick her up at home and then comes</p> <p>10 back and has to ask where she lives, that doesn't</p> <p>11 sound right.</p> <p>12 BY MS. ITCHHAPORIA:</p> <p>13 Q. Did you review Miss Diaz's court reported</p> <p>14 statement that she provided to Mr. Andersen's</p> <p>15 criminal defense attorney in 1981?</p> <p>16 A. No, I did not.</p> <p>17 Q. Did you review a memorandum that</p> <p>18 summarized ASAs: Erickson and Corboy's interview</p> <p>19 of Miss Diaz in 1981?</p> <p>20 A. No, I did not.</p> <p>21 Q. And going back to paragraph 5 there is a</p> <p>22 sentence there that you put in paren. Do you see</p> <p>23 that in parentheses?</p> <p>24 A. In No. 5?</p>	<p style="text-align: right;">Page 180</p> <p>1 case.</p> <p>2 Q. In reviewing Miss Diaz's deposition</p> <p>3 testimony for your report, isn't it true that</p> <p>4 Miss Diaz testified at her deposition that she</p> <p>5 never told the police that Bob LaGace was at</p> <p>6 Dot's Tavern and that he left to go get</p> <p>7 Miss Trunko?</p> <p>8 A. She told the police that he never left the</p> <p>9 tavern?</p> <p>10 Q. Right. She never told the police that?</p> <p>11 A. I don't think I read that.</p> <p>12 THE COURT REPORTER: I'm sorry, I didn't hear</p> <p>13 that.</p> <p>14 THE WITNESS: I don't think I read that. That</p> <p>15 just does not ring a bell with me.</p> <p>16 BY MS. ITCHHAPORIA:</p> <p>17 Q. Are you aware that Miss Diaz admitted to</p> <p>18 ASAs Erikson, Cohen, and Corboy in August of 1981</p> <p>19 that she did not tell the police about Bob LaGace</p> <p>20 leaving Dot's Tavern to find Miss Trunko because</p> <p>21 she was nervous?</p> <p>22 A. No, because I did not -- I was not</p> <p>23 provided that document to which you referred. Was</p> <p>24 that the same document that you referred in the</p>
<p style="text-align: right;">Page 179</p> <p>1 Q. Yeah.</p> <p>2 A. Which one are you asking me about now?</p> <p>3 Q. In paragraph 5 there is a sentence in</p> <p>4 parentheses. Do you see that?</p> <p>5 A. Where it says also missing?</p> <p>6 Q. Right.</p> <p>7 A. Okay. Okay.</p> <p>8 Q. When you are talking about detectives'</p> <p>9 reports here, which reports are you talking about?</p> <p>10 A. Supplementary Reports.</p> <p>11 Q. And which detectives' reports are you</p> <p>12 talking about?</p> <p>13 A. Well, whatever Supplementary Reports I was</p> <p>14 given. I really didn't look at who wrote the</p> <p>15 reports. I was looking at the reports from the</p> <p>16 from the substantive standpoint. And I did not</p> <p>17 find anything addressing that issue in any of the</p> <p>18 detectives' reports.</p> <p>19 Q. And which detective would have been</p> <p>20 responsible, in your opinion, for attempting to</p> <p>21 confirm that LaGace's companion Diane Diaz, that he</p> <p>22 did or did not leave Dot's Tavern to go pick up</p> <p>23 Trunko?</p> <p>24 A. I have no idea who was assigned to the</p>	<p style="text-align: right;">Page 181</p> <p>1 first question, or did you say her deposition?</p> <p>2 You asked two questions, this last one and</p> <p>3 the one before that. Did you reference that</p> <p>4 document, or was it her deposition? That she did</p> <p>5 not tell the police that he left the tavern?</p> <p>6 Q. That information -- the information that</p> <p>7 Miss Diaz admitted to three attorneys in</p> <p>8 August 1981 that she did not tell the police about</p> <p>9 Mr. LaGace leaving Dot's Tavern to go find</p> <p>10 Miss Trunko was in her deposition and was also in a</p> <p>11 memorandum that was written by ASA Corboy?</p> <p>12 MS. KEEN: I am just going to object to the</p> <p>13 mischaracterization -- mischaracterization of the</p> <p>14 facts in evidence and form.</p> <p>15 BY MS. ITCHHAPORIA:</p> <p>16 Q. So which document are you saying that you</p> <p>17 did not receive?</p> <p>18 A. Well, I didn't -- I didn't receive the</p> <p>19 ASA Corboy memo. I don't know if I got that part</p> <p>20 of the testimony of Diaz's deposition.</p> <p>21 Q. Did you review an investigative report</p> <p>22 from the State's Attorney's Office concerning an</p> <p>23 interview of Miss Diaz on June 18th, 2015?</p> <p>24 A. No.</p>

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<p style="text-align: right;">Page 182</p> <p>1 MS. ITCHHAPORIA: Can you mark this as the next 2 exhibit, please. 3 (Whereupon, Brzeczek 4 Deposition Exhibit No. 8 was 5 marked for identification.) 6 BY MS. ITCHHAPORIA: 7 Q. Mr. Brzeczek, the court reporter has 8 handed to you what has been marked as Exhibit 8 to 9 your deposition, Bates marked RFC-Andersen 008108 10 and 008109. And you previously mentioned 11 Mr. Stout's notes on yellow paper. Is this the 12 document that you reviewed? 13 A. Yes. 14 Q. And did you review both pages? 15 A. I think I did. I think that they were 16 like one above the other. 17 Q. And this -- and this is -- the document at 18 the top, there is -- on page 8108 it's entitled 19 Polygraph Examiner's Question Sheet. Do you see 20 that? 21 A. Yes. 22 Q. And this is a Chicago Police Department 23 official report; correct? 24 A. Right.</p>	<p style="text-align: right;">Page 184</p> <p>1 A. I -- I took Jimmy and just turned it into 2 his -- the name for which Jimmy is kind of an 3 alternative or a nickname. That's why I used 4 James. 5 Q. Is that -- is that an assumption that you 6 made that Jimmy Clark could also -- that could be a 7 nickname for James Clark? 8 A. Yes. Yes. 9 Q. And then you indicate in paragraph 7 of 10 your report that LaGace said that on Friday night 11 in another bar Trunko showed/taught LaGace some 12 card tricks. Where are you getting that 13 information that occurred in another bar? 14 A. Okay, he said he met her Friday. We were 15 at J.J.'s. She showed me a few card tricks. She 16 was pretty good. She was with Jim Clark at that 17 point. That's what he says here. 18 Okay, your question is about -- okay, when 19 you say in another bar, I'm presuming that J.J.'s, 20 where they said they met, J.J.'s is the bar, 21 another bar from Dot's Tavern. 22 Q. Okay. But earlier it says met through 23 J.J. (John Ryan). 24 A. I understand.</p>
<p style="text-align: right;">Page 183</p> <p>1 Q. And I was asking you about where -- in 2 paragraph 7 on page 2 of your report you indicate 3 that LaGace knew that James Clark was Trunko's 4 boyfriend. So what is the factual basis for that 5 statement? 6 A. Look at page 2 of Exhibit 8. 7 Q. Okay. 8 A. The upper portion, you see the 9 paragraph there that shows like two with the half 10 parentheses? 11 Q. Uh-huh. Yes. 12 A. Okay. It said -- here is what I read, 13 "Subject didn't know her well. Two days. They met 14 through J.J. (John Ryan). Victim was Jimmy 15 Clark's." Okay. Okay. That's how I got that. 16 Q. Okay. So when it says was Jimmy 17 Clark's -- victim was Jimmy Clark's, did you assume 18 that to mean she was -- 19 A. His girlfriend. 20 Q. -- with him? Okay. 21 And it says in this note Jimmy Clark. And 22 then later there is a reference to Jim Clark. But 23 your report says James Clark. Where did you get 24 James from?</p>	<p style="text-align: right;">Page 185</p> <p>1 Q. So even though it says in this report J.J. 2 is John Ryan, you thought J.J.'s meant a bar? 3 A. Yeah, because he said he met her Friday. 4 We were at J.J.'s. So I just thought that that was 5 a bar. 6 Q. Okay, you didn't take that to mean J.J. as 7 in John Ryan -- at John Ryan's? 8 A. At John Ryan's house, no. No, I did not 9 take it that way. 10 Q. Going to paragraph 8, you state at the 11 bottom there, talking about Diane Grabowski, "I do 12 not know what she told the police. But I have 13 reviewed the police report and see that none of the 14 foregoing information appears in there. If 15 Grabowski did actually tell the police any of this 16 information, the officer receiving the information 17 had to record it in an official police report and 18 make this information part of the file." Do you 19 see that? 20 A. Yeah. 21 Q. Okay. And going -- is there any 22 General Order, special order, department directive, 23 law enforcement standard that you can point me to 24 that specifically states that an officer is</p>

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<p style="text-align: right;">Page 186</p> <p>1 required to document everything that a witness 2 tells them in a police report? 3 MS. KEEN: Objection to the form of the 4 question. Asked and answered. 5 THE WITNESS: Going back to the quantum of 6 documents or reports or references or orders, 7 guidelines, training bulletins, this kind of 8 information, if it was, in fact, told to the police 9 at the time, should be included in the 10 Supplementary Report. Pertinent information. 11 Now, taking -- taking the Supplementary 12 Report from Bedran, he interviewed Diane Diaz and 13 gave her quite a few lines in his report as to what 14 she had to say. None of it deals with what she 15 alleges she told the police according to her 16 deposition that was not recorded. So you are 17 asking me about where should -- where does it say 18 they should record everything that a witness tells 19 them in an interview? 20 There is nothing that says they have to 21 record everything verbatim that it says but 22 pertinent information. And I think that what she 23 said here in the deposition as to what she told the 24 police is pertinent information.</p>	<p style="text-align: right;">Page 188</p> <p>1 that there are documents in existence that date 2 back to 1980 at the time that this happened and 3 thereafter that will give you the answer to those 4 questions about what is required of detectives to 5 put in their reports. 6 Q. And when you are saying documents, what 7 exactly are you talking about? 8 A. I am talking about orders, training 9 bulletins, training syllabi, the standard operating 10 procedure manual, division -- division special 11 orders from Detective Division. There is just a 12 quantum of documents that relate to the quality of 13 investigation, the conduct, the behavior of 14 detectives in conducting an investigation. 15 Q. Do any of those quantum documents state 16 that it's necessary and mandated for a detective to 17 record in a police report everything that a witness 18 tells them? 19 MS. KEEN: This has been asked and answered 20 multiple times and objection to form. 21 THE WITNESS: The answer is, yes, pertinent 22 information. For example, I mean if the witness 23 says that, you know, I'm talking to you while my 24 hair is in curlers, that's not pertinent. Okay?</p>
<p style="text-align: right;">Page 187</p> <p>1 MS. ITCHHAPORIA: Can you just scroll to the 2 top of his response. 3 BY MS. ITCHHAPORIA: 4 Q. So you say -- okay -- 5 MS. ITCHHAPORIA: Oh, I am sorry. 6 THE VIDEOGRAPHER: Excuse me, I need to go off 7 the record. 8 MS. ITCHHAPORIA: Oh, okay. 9 THE VIDEOGRAPHER: We are going off the video 10 record at 3:04 p.m. 11 (Recess taken.) 12 THE VIDEOGRAPHER: Back on the video record at 13 3:09 p.m. 14 BY MS. ITCHHAPORIA: 15 Q. So, Mr. Brzeczek, in your last response 16 you reference a quantum of documents, reports, 17 references, orders, guidelines, and training 18 bulletins. But I'm -- I'm asking you to identify a 19 specific document that I can go and look at that 20 says detectives are required to document what a 21 witness tells them during an interview. 22 A. I cannot give you a specific document 23 because I don't know one from my own personal 24 memory or knowledge right now. But I will tell you</p>	<p style="text-align: right;">Page 189</p> <p>1 I'm talking about pertinent information to 2 the commission of the crime to the investigation 3 that will be helpful. 4 BY MS. ITCHHAPORIA: 5 Q. So is it your testimony that the quantum 6 of documents that you are referring to that you 7 can't identify specifically right now says 8 detectives are required to record pertinent 9 information that a witness tells them or all the 10 information that a witness tells them? 11 MS. KEEN: Objection. Misstates his testimony 12 and compound. 13 THE WITNESS: I'm telling you that pertinent 14 information is the basic requirement of reporting. 15 You don't want to put, as I said, extraneous 16 information. Interviewed the witness who had her 17 hair in curlers. It's not -- it doesn't -- it's 18 not relevant to anything that she had her hair in 19 curlers. 20 But what she had to say, where she was, 21 how far away she was when she saw something or 22 heard something, that's all pertinent. 23 BY MS. ITCHHAPORIA: 24 Q. Is there a department directive that you</p>

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<p style="text-align: right;">Page 190</p> <p>1 can identify by number or date or title that says</p> <p>2 detectives are required to document in a police</p> <p>3 report all pertinent information that a witness</p> <p>4 tells them that was in effect in 1980?</p> <p>5 MS. KEEN: Objection. Asked and answered.</p> <p>6 THE WITNESS: No.</p> <p>7 BY MS. ITCHHAPORIA:</p> <p>8 Q. You state in this paragraph and -- that we</p> <p>9 were just looking at in that last sentence there,</p> <p>10 the last full sentence in paragraph 8, that the</p> <p>11 officer receiving the information had to record it</p> <p>12 in an official police report and make this</p> <p>13 information part of the file. Are you saying here</p> <p>14 that it was incumbent on the officer to put the</p> <p>15 report in the file?</p> <p>16 A. You talk about mechanical things, putting</p> <p>17 the report in the file, making it part -- making it</p> <p>18 a part of the file, you have to understand what all</p> <p>19 of that means.</p> <p>20 When a detective prepares a Supplementary</p> <p>21 Report, the original goes down to the central</p> <p>22 records section. Whatever that's called now. It</p> <p>23 used to be called the Records Division. But that's</p> <p>24 where -- that's the central repository of these</p>	<p style="text-align: right;">Page 192</p> <p>1 Q. Right. But the processing of that report,</p> <p>2 that's not the responsibility of the detectives</p> <p>3 back in 1980; correct?</p> <p>4 A. That is correct. That is correct. The</p> <p>5 detective's responsibility is to prepare the report</p> <p>6 and submit it for processing.</p> <p>7 Q. Now, you say in addition it had to be</p> <p>8 disclosed to the prosecutors. What's the it that</p> <p>9 you are referring to?</p> <p>10 A. It is the information that she gave --</p> <p>11 that she supposedly gave to the police that was not</p> <p>12 found in any police report. But assuming she gave</p> <p>13 that information to the police, it should have been</p> <p>14 memorialized in a Supplementary Report and then</p> <p>15 disclosed to the prosecutors.</p> <p>16 Q. Are you saying that in this case the</p> <p>17 prosecutors did not get that information?</p> <p>18 A. I don't know what the prosecutors got.</p> <p>19 And that's, again, beyond the scope of my focus or</p> <p>20 my inquiry.</p> <p>21 Q. You reviewed both Mr. Erickson and</p> <p>22 Mr. Cohen's deposition transcript; correct?</p> <p>23 A. I really didn't pay much attention to what</p> <p>24 was in there because, again, it's an area beyond</p>
<p style="text-align: right;">Page 191</p> <p>1 reports.</p> <p>2 There is also what's called a running or a</p> <p>3 street file in each area for those cases. A copy</p> <p>4 of the report goes into that file also.</p> <p>5 So, as I said, he prepares a report. I</p> <p>6 think in a way it's not relevant to try to dissect</p> <p>7 is it the downtown file or the area file. They are</p> <p>8 two separate files.</p> <p>9 But what's important is that there is a</p> <p>10 document that you and I or anyone else can go</p> <p>11 reference in a police department file containing</p> <p>12 the information.</p> <p>13 Q. You would agree back in 1980 that</p> <p>14 detectives were not responsible for putting their</p> <p>15 Supplementary Reports in any file based -- once a</p> <p>16 detective drafts a report, they submit it for</p> <p>17 approval; correct?</p> <p>18 A. Yeah. The detective prepares the report</p> <p>19 like we reference I think in Exhibit No. 5. Okay?</p> <p>20 Detective submits the report. It goes to a</p> <p>21 sergeant. The sergeant approves it. And then the</p> <p>22 processing of that report, as I just described it,</p> <p>23 it then takes place. A copy goes in the area file;</p> <p>24 a copy goes downtown.</p>	<p style="text-align: right;">Page 193</p> <p>1 what I was specifically asked to do. And that is</p> <p>2 to focus on the conduct of the detectives'</p> <p>3 reporting.</p> <p>4 Q. Okay. So when you are saying in addition</p> <p>5 it had to be disclosed to prosecutors, you are not</p> <p>6 saying that did not occur in this case? You are</p> <p>7 just saying generally that is what typically</p> <p>8 occurs?</p> <p>9 A. That's why --</p> <p>10 MS. KEEN: Objection. Misstates his document</p> <p>11 and his prior testimony.</p> <p>12 THE WITNESS: Okay.</p> <p>13 MS. KEEN: You can answer.</p> <p>14 THE WITNESS: Yeah. I'm not -- what I'm saying</p> <p>15 is that the information that Diaz said she gave to</p> <p>16 the police, I did not find in any police report</p> <p>17 that was provided to me. If it was not in a police</p> <p>18 report that I looked at, and I am assuming I was</p> <p>19 given all the reports in that file, then I am going</p> <p>20 to presume it was not given to the prosecutors</p> <p>21 because prosecutors get the reports and they go</p> <p>22 through the reports as they get them.</p> <p>23 So if it's not in any police report, it</p> <p>24 wouldn't be disclosed to the prosecutors then</p>

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<p style="text-align: right;">Page 194</p> <p>1 unless, unless the detectives told it to them</p> <p>2 verbally. And I don't think that there is a</p> <p>3 prosecutor that I know would accept that kind of</p> <p>4 information.</p> <p>5 BY MS. ITCHHAPORIA:</p> <p>6 Q. But it's possible that the prosecutors got</p> <p>7 that information from some other source other than</p> <p>8 police reports; correct?</p> <p>9 MS. KEEN: Objection. Calls for speculation,</p> <p>10 lacks foundation, incomplete hypothetical.</p> <p>11 THE WITNESS: If you ask me if they -- if it's</p> <p>12 possible that they got it from some other source,</p> <p>13 whenever you say possible within the realm of, you</p> <p>14 know, anything being possible, I would say yes.</p> <p>15 Probable? Highly improbable because you</p> <p>16 have to maybe suggest to me what other sources you</p> <p>17 may be talking about.</p> <p>18 BY MS. ITCHHAPORIA:</p> <p>19 Q. All right. Let me do that then. In</p> <p>20 Mrs. Diaz's court reported statement that she</p> <p>21 provided to Andersen's criminal defense attorney</p> <p>22 that she talked about in her deposition and that</p> <p>23 she provided to the criminal defense attorney in</p> <p>24 1981, she stated that on the night of the murder</p>	<p style="text-align: right;">Page 196</p> <p>1 That's the kind of information that Brady</p> <p>2 versus Maryland talks about specifically. And that</p> <p>3 is if the police have exculpatory information, they</p> <p>4 are to turn it over to the prosecutors who are</p> <p>5 required to turn it over to the defense. You know,</p> <p>6 you don't have -- the defense doesn't have any</p> <p>7 obligation that I know of to turn exculpatory</p> <p>8 information over to the prosecution unless it falls</p> <p>9 within one of the requirements under the</p> <p>10 Supreme Court rules concerning criminal discovery.</p> <p>11 So you are saying that even though the</p> <p>12 prosecutors may have obtained that same information</p> <p>13 from another source, it does not discharge the</p> <p>14 detective's duty under Brady?</p> <p>15 MS. KEEN: Objection. Calls for a legal</p> <p>16 conclusion, a legal opinion, and mischaracterizes</p> <p>17 his prior testimony.</p> <p>18 THE WITNESS: I don't think that the detectives</p> <p>19 can hide behind the mantle of the fact that -- what</p> <p>20 did you say a year and a half later -- the defense</p> <p>21 attorney gave that statement to the prosecutors?</p> <p>22 The prosecutors should have had that assuming that</p> <p>23 Diaz did tell that to the police. They should have</p> <p>24 had that within two weeks after they charged</p>
<p style="text-align: right;">Page 195</p> <p>1 she was at the tavern with Mr. LaGace, that</p> <p>2 Mr. LaGace left, and then he came back and he was</p> <p>3 breathing heavily and that he was missing a knife.</p> <p>4 That court reported statement was provided</p> <p>5 to Mr. Erickson and Mr. Cohen before the start of</p> <p>6 Mr. Andersen's criminal trial. So that is</p> <p>7 information that they had; correct?</p> <p>8 MS. KEEN: I am going to object that it is</p> <p>9 outside the scope of this witness's knowledge. You</p> <p>10 are making factual representations to him and then</p> <p>11 asking him whether these factual representations</p> <p>12 are correct. So objection. Calls for speculation.</p> <p>13 Lacks foundation.</p> <p>14 BY MS. ITCHHAPORIA:</p> <p>15 Q. And I will tell you Mr. Erickson testified</p> <p>16 to that at his deposition.</p> <p>17 MS. KEEN: Same objections.</p> <p>18 THE WITNESS: The -- the information that you</p> <p>19 just described to me was provided to the</p> <p>20 prosecution by the defense attorney. The fact that</p> <p>21 the defense attorney did that, turned it over to</p> <p>22 the prosecution, in my opinion does not exonerate</p> <p>23 the detectives for failing to document that same</p> <p>24 information in their reports.</p>	<p style="text-align: right;">Page 197</p> <p>1 Andersen or whenever discovery started. Okay? Put</p> <p>2 it that way. That's when -- that's when they have</p> <p>3 to turn things over. It is actually after the</p> <p>4 indictment or the information being filed.</p> <p>5 BY MS. ITCHHAPORIA:</p> <p>6 Q. But you are not going to be offering any</p> <p>7 opinion that the prosecutors in this case, in</p> <p>8 Mr. Andersen's case, did not have that information</p> <p>9 that Diaz was at the bar with LaGace, that LaGace</p> <p>10 left to go get Trunko, and he came back about</p> <p>11 30 minutes later and was sweating and breathing</p> <p>12 heavy?</p> <p>13 MS. KEEN: Objection. Form.</p> <p>14 THE WITNESS: I'm not going to have any opinion</p> <p>15 on that at all.</p> <p>16 BY MS. ITCHHAPORIA:</p> <p>17 Q. Looking at page 3 of your report in the</p> <p>18 last sentence there in that paragraph you say,</p> <p>19 "Therefore based on existing CPD policies and</p> <p>20 procedures." What existing CPD policies and</p> <p>21 procedures are you referring to there?</p> <p>22 A. Okay, we are still talking about the</p> <p>23 quantum of information of directives and training</p> <p>24 materials that dictate how detectives should</p>

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<p style="text-align: right;">Page 198</p> <p>1 conduct themselves. And those have not really</p> <p>2 changed over the years, over the decades, over the</p> <p>3 centuries except as was required to comply with</p> <p>4 changes in the law.</p> <p>5 For example, Brady versus Maryland imposed</p> <p>6 new requirements on the police and the prosecution.</p> <p>7 Okay? So those would be the only changes. These</p> <p>8 policies of turning over exculpatory information,</p> <p>9 exculpatory evidence has been the law since 1963.</p> <p>10 That's even before I was a police officer.</p> <p>11 It hasn't changed. It may have become a little</p> <p>12 more open. It may have become a little more</p> <p>13 compliant with the spirit of Brady. But it hasn't</p> <p>14 changed.</p> <p>15 And they were -- they were required then,</p> <p>16 they are required now, and they were required at</p> <p>17 least after Brady to comply with the law and</p> <p>18 disclose this information.</p> <p>19 Q. Can you identify a CPD policy that was in</p> <p>20 existence in 1995, that specifically stated CPD</p> <p>21 officers and detectives who possess this</p> <p>22 information were required to record and disclose</p> <p>23 it?</p> <p>24 MS. KEEN: Other than what he has testified to?</p>	<p style="text-align: right;">Page 200</p> <p>1 question --</p> <p>2 MS. ITCHHAPORIA: I've got limited time. So</p> <p>3 I'm not going to get -- I'm not going to engage.</p> <p>4 MS. KEEN: And then you go back and ask a</p> <p>5 question saying so you can't identify anything.</p> <p>6 And you keep doing that. And it is really</p> <p>7 inappropriate.</p> <p>8 The witness is answering. If you don't</p> <p>9 like the answer, that's -- you know, it is what it</p> <p>10 is. You have to not ask the same question over and</p> <p>11 over again.</p> <p>12 BY MS. ITCHHAPORIA:</p> <p>13 Q. The information that Miss Diaz says that</p> <p>14 she told the police, you are not going to be</p> <p>15 offering any opinions at trial whether or not that</p> <p>16 information is exculpatory; are you?</p> <p>17 MS. KEEN: Objection. Asked and answered.</p> <p>18 THE WITNESS: No.</p> <p>19 BY MS. ITCHHAPORIA:</p> <p>20 Q. Going on paragraph 7, but which we talked</p> <p>21 about earlier it should be paragraph 9 --</p> <p>22 A. Okay.</p> <p>23 Q. -- you indicate, "There is no reference in</p> <p>24 the officer's report as to how they received this</p>
<p style="text-align: right;">Page 199</p> <p>1 Objection. Asked and answered, form.</p> <p>2 THE WITNESS: You said 1985 or 1980?</p> <p>3 BY MS. ITCHHAPORIA:</p> <p>4 Q. 1980.</p> <p>5 A. My answer to that question would be the</p> <p>6 same as it has been. And that is they were</p> <p>7 required to memorialize it and disclose it. And</p> <p>8 that is within the entire spectrum of directives</p> <p>9 and training materials that --</p> <p>10 Q. You can't identify a specific</p> <p>11 General Order or --</p> <p>12 A. No.</p> <p>13 Q. -- a specific order that says that?</p> <p>14 MS. KEEN: Other than what he has already</p> <p>15 testified to, objection. This has been asked and</p> <p>16 answered. He has identified specific things, and</p> <p>17 you keep asking the same thing.</p> <p>18 MS. ITCHHAPORIA: But I am asking him specific.</p> <p>19 And then he is going to a quantum of documents.</p> <p>20 That's totally unresponsive.</p> <p>21 MS. KEEN: But he has repeatedly identified</p> <p>22 specific things such as Brady versus Maryland.</p> <p>23 MS. ITCHHAPORIA: I'm --</p> <p>24 MS. KEEN: And then you go back and ask a</p>	<p style="text-align: right;">Page 201</p> <p>1 information or from whom and when. And it's</p> <p>2 referring to information officers received about</p> <p>3 Andersen having a gun." Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. When you are talking about in the</p> <p>6 officer's report, which officers are you referring</p> <p>7 to?</p> <p>8 A. That would be the officers who I think</p> <p>9 were the ones that ended up arresting Andersen.</p> <p>10 They responded to a call about him with a gun.</p> <p>11 And -- well, I am saying they responded to. I said</p> <p>12 a call about him with a gun. They received</p> <p>13 information about him having a gun.</p> <p>14 They did not say from where they got that</p> <p>15 information, how they got that information, by what</p> <p>16 means. Was it by radio? Was it an informant or</p> <p>17 what. That's just -- it is missing.</p> <p>18 Q. And which report are you saying that they</p> <p>19 should have documented that in?</p> <p>20 A. In their Case Report or -- I don't know if</p> <p>21 it was a Case Report. It could have been a</p> <p>22 Supplementary Report to this case, but there is a</p> <p>23 report there that they got information that he had</p> <p>24 a gun. And that's how he came to their attention.</p>

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<p style="text-align: right;">Page 202</p> <p>1 Q. And so is there -- can you point to a 2 specific General Order or special order that says 3 patrol officers are required to document in a 4 Case Report or a Supplementary Report who they 5 receive information from, whether -- and how they 6 receive it, whether it's on the radio, from someone 7 directly?</p> <p>8 A. Yes. There is standard reporting 9 procedures for patrol officers. The two big 10 lines of demarkation are receiving a radio 11 assignment or an on-view assignment.</p> <p>12 That's what you will find at the beginning 13 of every police report written by patrol officers. 14 Okay? In terms of -- going back -- here they have 15 in Exhibit No. 4 reporting officer's responding to 16 a girl bleeding at 4936 South Paulina.</p> <p>17 We don't know if that came over the radio 18 or somebody waved them down. But I am going to 19 assume that that came over the radio because they 20 would identify someone -- we will call them hand 21 wavers, waving them down saying there is a girl 22 bleeding there.</p> <p>23 Or if they saw her laying on the sidewalk 24 bleeding, they would have said this is an on-view</p>	<p style="text-align: right;">Page 204</p> <p>1 or special orders?</p> <p>2 A. Yeah, and in the -- in the field reporting 3 manual, whatever that may be called now. But back 4 then it was called the Field Reporting Manual 5 because there were instructional materials given to 6 each officer on how to prepare the reports and 7 what's required in the reports.</p> <p>8 Q. Then going to paragraph 11 of -- sorry. 9 Going to paragraph 10 of your report, you mention 10 that the -- the last sentence, "Not only is there 11 no mention of his, Robert LaGace, being taken for a 12 polygraph exam, but there is also no mention of any 13 visible scars on the face, and slash, or neck of 14 LaGace by the detectives."</p> <p>15 Was there a requirement in existence in 16 1980 that detectives had to document the physical 17 appearance of a witness or a suspect in a 18 Supplementary Report?</p> <p>19 A. Yes. Again, if you have a suspect in this 20 case, LaGace, and I'm saying suspect because they 21 took him for a polygraph exam, there is no 22 indication that LaGace was a witness to anything. 23 He was taken there as a suspect.</p> <p>24 Now, Andersen says that he knows there is</p>
<p style="text-align: right;">Page 203</p> <p>1 incident because they have to notify communications 2 that they came across something. So this would be 3 more -- I would be more inclined to think of this 4 as a radio assignment a girl bleeding.</p> <p>5 But the other one that we talked about 6 with Andersen being arrested, information. Didn't 7 say that they were responding to a call, responding 8 to information, a hand waver or anything like that 9 or on view. It's just they got information.</p> <p>10 Q. So is it your testimony that the 11 exist -- the 19 -- sorry, that the standard 12 reporting procedures for patrol officer that were 13 in existence --</p> <p>14 THE COURT REPORTER: I'm sorry, can you start 15 that again, please.</p> <p>16 MS. ITCHHAPORIA: Sure.</p> <p>17 BY MS. ITCHHAPORIA:</p> <p>18 Q. Is it your testimony that the standard 19 report -- reporting procedures for patrol officers 20 that was in effect in 1980 required patrol officers 21 to document the source of the information?</p> <p>22 A. That's correct.</p> <p>23 Q. And when you are saying standard reporting 24 procedures, are those procedures in General Orders</p>	<p style="text-align: right;">Page 205</p> <p>1 a guy by the name of Bob which is a short version 2 for Robert. He has a scar on his face and on his 3 neck. There is no mention that LaGace had a scar 4 on his face and/or neck or didn't have one.</p> <p>5 You know, these are things that could not 6 only implicate somebody, but they can also 7 exonerate someone. So if Andersen is saying it is 8 Bob with a scar on his face and his neck and LaGace 9 didn't have one, that would kind of rule out LaGace 10 as the person about whom Andersen is speaking. So 11 that's why it's important to document these things.</p> <p>12 Q. And so where does it say that -- where 13 does it say that patrol officers are specifically 14 required to document physical appearances of 15 witnesses or suspects?</p> <p>16 MS. KEEN: Objection. Form, assumes facts not 17 in evidence, and asked and answered.</p> <p>18 THE WITNESS: Same quantum of information I 19 told you about before. And I am just adding 20 specifically the Field Reporting Manual because it 21 tells you about how to put descriptions into the 22 report which includes scars, marks, tatoos, moles, 23 things about how tall someone is.</p> <p>24</p>

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<p style="text-align: right;">Page 206</p> <p>1 BY MS. ITCHHAPORIA:</p> <p>2 Q. And you are saying the Field Reporting</p> <p>3 Manual says to put descriptions into reports.</p> <p>4 Which reports?</p> <p>5 A. Case and Supplementary Reports.</p> <p>6 Q. Other than the Field Reporting Manual, is</p> <p>7 there any other written document, rule, policy,</p> <p>8 procedure that says that when you are saying</p> <p>9 quantum of information?</p> <p>10 A. The other document would be the Rules and</p> <p>11 Regulations of the police department because the</p> <p>12 Field Reporting Manual is basically a guideline</p> <p>13 manual which requires uniformity in reporting. So</p> <p>14 if you fail to comply with the provisions of the</p> <p>15 Field Reporting Manual, you could be cited for</p> <p>16 failure to obey a direct order whether written or</p> <p>17 oral. That's Rule No. 6 of the Rules and</p> <p>18 Regulations in effect at the time.</p> <p>19 So there is a directive that can be</p> <p>20 enforced if the officers are not preparing the</p> <p>21 reports in accordance with the requirements or the</p> <p>22 guidelines of the Field Reporting Manual.</p> <p>23 Q. You state in paragraph --</p> <p>24 MS. KEEN: I am sorry, he is just getting --</p>	<p style="text-align: right;">Page 208</p> <p>1 questioning, the first major line in questioning.</p> <p>2 If it's repeated over a period of time,</p> <p>3 you know, about someone is in custody, can you come</p> <p>4 back, are you sure you don't want to change your</p> <p>5 mind about your answer, they may change to yes.</p> <p>6 But initially no prevails significantly</p> <p>7 substantially, overwhelmingly over yes. So I put</p> <p>8 that aside. And I look at the other information</p> <p>9 that's available to me to say that -- say that</p> <p>10 LaGace should have been ruled out, if he was to be</p> <p>11 ruled out, more definitively than he was.</p> <p>12 Q. In paragraph 11 there you say, "Detectives</p> <p>13 obtained a statement from Andersen that describes a</p> <p>14 somewhat complex and convoluted plot that he</p> <p>15 contrived to kill Trunko." And we talked about</p> <p>16 that earlier being your opinion; correct?</p> <p>17 A. That's correct. I said I used those words</p> <p>18 "convoluted" and "complex." That was my opinion.</p> <p>19 Q. You didn't read Mr. Andersen's deposition</p> <p>20 transcript; correct?</p> <p>21 A. No.</p> <p>22 Q. And you didn't read his court reported</p> <p>23 statement?</p> <p>24 A. No.</p>
<p style="text-align: right;">Page 207</p> <p>1 MS. ITCHHAPORIA: Go ahead. Okay. Thank you.</p> <p>2 BY MS. ITCHHAPORIA:</p> <p>3 Q. You state in paragraph 8 of your report</p> <p>4 that LaGace may have had something to do with the</p> <p>5 murder and he was at least a possible suspect. But</p> <p>6 from your review of Stout's deposition and notes,</p> <p>7 you know that Mr. LaGace answered no both during</p> <p>8 the pretest and the polygraph exam as far as</p> <p>9 whether or not he is the one that stabbed Cathy</p> <p>10 Trunko; correct?</p> <p>11 A. Yes.</p> <p>12 Q. And so are you -- when you say LaGace may</p> <p>13 have had something to do with the murder, are you</p> <p>14 discounting his responses that he provided during</p> <p>15 his pretest and polygraph?</p> <p>16 A. You mean responses to, no, I didn't kill</p> <p>17 Cathy Trunko?</p> <p>18 Q. Right. No, I didn't kill her, and, no, I</p> <p>19 didn't stab her?</p> <p>20 A. Am I disregarding them? Yes, I am because</p> <p>21 generally when people are asked questions, that did</p> <p>22 you kill someone, the answer is no. You know, the</p> <p>23 answer no is -- comes up more frequently than the</p> <p>24 answer yes. Okay? Especially on the first line of</p>	<p style="text-align: right;">Page 209</p> <p>1 Q. So is your factual basis for saying that</p> <p>2 the plot was -- what is your factual basis for that</p> <p>3 statement?</p> <p>4 A. The Supplementary Reports.</p> <p>5 Q. Is there a specific Supplementary Report?</p> <p>6 A. There probably is, but I can't tell you</p> <p>7 which one right now.</p> <p>8 Q. Are you critical of that Supplementary</p> <p>9 Report that documents Mr. Andersen's statements</p> <p>10 about his involvement in the killing of</p> <p>11 Miss Trunko?</p> <p>12 A. Yes.</p> <p>13 Q. Why?</p> <p>14 A. Everything fits in real nice and neat. It</p> <p>15 is like they made a puzzle and built it themselves.</p> <p>16 Q. What's your basis for saying that?</p> <p>17 A. Things just don't happen that smoothly.</p> <p>18 It all fit into real nice pieces. That's the way</p> <p>19 you want it to go. Why I don't know, but that's</p> <p>20 the way -- that's the impression I got.</p> <p>21 Q. When you say things don't happen that</p> <p>22 smoothly, what is your basis for saying that?</p> <p>23 A. Okay.</p> <p>24 Q. Is that based on your experience?</p>

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<p style="text-align: right;">Page 210</p> <p>1 A. Well, it was -- yes, it is based upon my 2 experience. Let's just start with, for example, he 3 gets arrested. Okay? And the whole way he gets 4 arrested, you know, they have information with a 5 gun. And then he is picked up and he is being 6 driven into the station and then he wants to 7 confess to the Trunko murder because later on he 8 says he just wanted to talk to real police 9 detectives that are investigating it. So they go 10 from 9 to Area 3.</p> <p>11 I mean it all fits into pieces. It just 12 doesn't make any sense. Things, in my experience, 13 just do not happen that way.</p> <p>14 MS. KEEN: And just so we are clear, you -- you 15 are asking him to expand upon opinions that are not 16 reflected in his disclosure.</p> <p>17 BY MS. ITCHHAPORIA:</p> <p>18 Q. Well, I just want to be clear, that 19 opinion that you just rendered is not in your 20 report here?</p> <p>21 A. No, it's not. But you asked me about it; 22 so that's why I gave it to you.</p> <p>23 Q. Well, you are not going to be offering any 24 testimony at trial about it; correct, that opinion</p>	<p style="text-align: right;">Page 212</p> <p>1 to police officers?</p> <p>2 A. It was being taught when I was in the 3 academy. It was being taught before I was in the 4 academy. And it was being taught after I was in 5 the academy.</p> <p>6 Q. And you haven't studied polygraph use; is 7 that correct?</p> <p>8 A. I am sorry, what?</p> <p>9 Q. You have not studied polygraph use; is 10 that correct?</p> <p>11 A. Well, it depends on what you mean by 12 studying polygraph use. I mean I have read 13 extensively on the use of a polygraph. But I have 14 no idea how to administer the test. I have no idea 15 how to interpret the test.</p> <p>16 But I have read the pros and cons about 17 polygraph use. I read the reasoning behind the 18 general rule among courts in the United States. 19 Polygraph evidence is not admissible because it 20 doesn't, you know, meet the -- meet the 21 requirements of the Frye test.</p> <p>22 You know, so I have read a lot about 23 polygraph. And we also employed it a lot in 24 internal investigations. And we modified that</p>
<p style="text-align: right;">Page 211</p> <p>1 that you just provided?</p> <p>2 MS. KEEN: I am just going to object to the 3 extent he is asked a question, he is going to 4 answer it.</p> <p>5 THE WITNESS: Counsel, offering an opinion at 6 trial, that depends on who asks me the questions. 7 Okay? And I only respond to the questions. I mean 8 I don't decide what opinion, you know, I'm going 9 to -- I just don't walk in there and announce the 10 opinion, like, say, counsel, would -- making an 11 argument.</p> <p>12 MS. KEEN: I can represent that that opinion 13 that you just elicited from him is not one that we 14 are -- we have offered him for or that he is 15 disclosed in his report. So just be aware that 16 that's an expansion that you are soliciting.</p> <p>17 BY MS. ITCHHAPORIA:</p> <p>18 Q. In the Opinion section of your report in 19 paragraph 2 there you state all police officers are 20 taught in their respecting -- respective academies 21 that the polygraph is an investigative tool, 22 albeit, in many instances an important tool.</p> <p>23 Is that what was being taught in -- when 24 was that being taught in the respective academies</p>	<p style="text-align: right;">Page 213</p> <p>1 policy likewise.</p> <p>2 So when you asked me about studied 3 polygraph use, I guess if I read one book, you 4 know, a comprehensive tome about polygraph, then I 5 have to say, yes, I studied polygraph use.</p> <p>6 Am I qualified to administer? No. Am I 7 qualified to interpret? No. You know, I just know 8 it as an investigative tool.</p> <p>9 Q. I apologize if I have asked you this, but 10 did you review the deposition of Frank LaGace?</p> <p>11 A. No. It's, no, you didn't ask me, and, no, 12 I didn't review it.</p> <p>13 Q. You state here, going to 5B, that the 14 detectives failed to report the reasons why they 15 regarded Robert LaGace as a suspect. Is there a 16 specific policy that you can identify that mandates 17 that detectives in 1980 were required to document 18 why they believe someone was a suspect?</p> <p>19 MS. KEEN: Objection. Form. Asked and 20 answered.</p> <p>21 THE WITNESS: Well, we don't know at this point 22 how the detectives convinced or persuaded LaGace to 23 submit to the polygraph exam.</p> <p>24 Now, let's assume that all of this</p>

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<p style="text-align: right;">Page 214</p> <p>1 happened just as it did, okay, and LaGace turns 2 around and sues the detectives for false 3 imprisonment, false arrest, things like this 4 because they dragged him down for the polygraph. 5 He wasn't free to leave, and they had no probable 6 cause to arrest him.</p> <p>7 So we want to know about these things as 8 to why are you doing things so that when the 9 question comes up next month, next year, five years 10 from now, maybe even in litigation, we have a 11 documented reason why they took him down for a 12 polygraph exam and how they went down.</p> <p>13 He volunteered to go down. We don't even 14 know if he volunteered. We don't know that from 15 any of the reports because there are no reports by 16 the detectives. The only report is by Stout.</p> <p>17 BY MS. ITCHHAPORIA:</p> <p>18 Q. Did you review the polygraph waiver that 19 Mr. LaGace signed?</p> <p>20 A. I don't think that was provided to me or 21 if it was in the -- in the folder with Stout's 22 reports, I may have seen the waiver, but I kind of 23 went past it. You know -- excuse me, I do 24 recollect now. I do remember the waiver in Stout's</p>	<p style="text-align: right;">Page 216</p> <p>1 potential suspect.</p> <p>2 You know, Stout is not going to -- and I 3 am not speaking for him, but I am saying people 4 like Stout are not going to risk a confrontation, 5 the reputation being impugned, or whatever or even 6 a CR number, you know, fighting over someone to 7 submit to a polygraph exam.</p> <p>8 So that -- Stout is the guy that I look to 9 as adding credence to your question, he did it 10 voluntarily. If he got down there voluntarily, I 11 don't know. But maybe by the time he got down 12 there, he was convinced to be voluntary. I don't 13 know.</p> <p>14 Q. There was nothing that you read that 15 indicated that Robert LaGace had a relationship 16 with Trunko other than knowing her for two days; 17 right?</p> <p>18 MS. KEEN: Object.</p> <p>19 THE WITNESS: As far as what I read, that's 20 been about the extent of it.</p> <p>21 BY MS. ITCHHAPORIA:</p> <p>22 Q. And there was no evidence in anything that 23 you read that Robert LaGace had a history of sexual 24 assault?</p>
<p style="text-align: right;">Page 215</p> <p>1 file.</p> <p>2 Q. Okay. So Mr. LaGace did, in fact, go to 3 the -- go to the -- get polygraphed voluntarily?</p> <p>4 MS. KEEN: Objection. Assumes facts not in 5 evidence. Calls for speculation.</p> <p>6 THE WITNESS: I would not -- I would not 7 necessarily draw that conclusion.</p> <p>8 BY MS. ITCHHAPORIA:</p> <p>9 Q. Would you agree that he consented to be 10 polygraphed?</p> <p>11 MS. KEEN: Objection. Calls for speculation.</p> <p>12 THE WITNESS: What's missing in your question 13 for me to answer is would I agree that he 14 voluntarily and freely consented to submit to a 15 polygraph. And the answer is I don't know.</p> <p>16 BY MS. ITCHHAPORIA:</p> <p>17 Q. Even after you have reviewed the -- the 18 polygraph waiver?</p> <p>19 A. I'm going to presume that there was 20 nothing really difficult going on there because the 21 Criminalistics Division, the crime lab people, you 22 know, don't get into the kinds of confrontations 23 with say subjects on a polygraph exam like you 24 would think detectives would in the area with a</p>	<p style="text-align: right;">Page 217</p> <p>1 A. I don't know anything about Robert 2 LaGace's background.</p> <p>3 Q. Now, from your review of Miss Diaz's 4 testimony, did you review her testimony where she 5 testified that Mr. Andersen and Cathy Trunko were 6 friends?</p> <p>7 A. Say -- I am sorry, I somehow --</p> <p>8 Q. Did you review Miss Diaz's deposition 9 testimony portion where she testified that 10 Mr. Andersen and Cathy Trunko were friends prior to 11 Miss Trunko's murder?</p> <p>12 A. Yeah, I am not sure to what degree they 13 were friends, but I think that they were 14 acquaintances because they lived in the same 15 neighborhood.</p> <p>16 Q. Are you aware that other women accused 17 Mr. Andersen of sexual assault?</p> <p>18 MS. KEEN: Objection. This assumes facts that 19 are not -- first of all, there is a protective 20 order on some of this stuff.</p> <p>21 MS. ITCHHAPORIA: I am talking about Andrea 22 Rolly [phonetic]. That's --</p> <p>23 THE COURT REPORTER: I'm sorry, I didn't hear 24 you.</p>

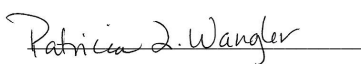
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<p style="text-align: right;">Page 218</p> <p>1 MS. KEEN: I think you are treading very close 2 to the line here. 3 Second of all, this is far afield now of 4 what this expert has been presented on. And I 5 don't really know what the purpose is of that 6 question other than to harass and embarrass the 7 plaintiff in this case. 8 I don't see how you can tie that out to 9 anything that's in his report. You are also asking 10 for him to talk about facts that have nothing to do 11 with his opinion. 12 BY MS. ITCHHAPORIA: 13 Q. Well, you state in this -- in your report 14 that the detectives regarded Mr. LaGace as a 15 suspect; correct? 16 A. I stated in my report that they had to. 17 Q. Okay. And isn't it true that based on 18 your experience in law enforcement and materials 19 that you have read in your training that victims of 20 sexual assault either know their offender before 21 the sexual assault or if they don't know the 22 offender, then the offender has a history or 23 pattern of sexual assaults? 24 MS. KEEN: I am just going to object. This is</p>	<p style="text-align: right;">Page 220</p> <p>1 polygraph exam, that raised some bright red flags 2 in my mind. And I would like to know why they took 3 him for a polygraph exam. 4 BY MS. ITCHHAPORIA: 5 Q. But is the only reason that you are saying 6 the detectives would have regarded Mr. LaGace as a 7 suspect, is it based only on the fact that they 8 took him to get the polygraph? 9 A. Not necessarily. While there is nothing 10 in the police reports, Diaz said in her deposition 11 that she told all this information to the 12 detectives. And I'm presuming she told it to them 13 when they interviewed her as memorialized in 14 Bedran's report on the 20th of January. I 15 don't think that she parcelled that information 16 out. 17 Now, there is enough there to at least 18 rule him out. I mean we do know based upon what 19 has been brought forth that LaGace left 20 Dot's Tavern to go pick Trunko up. Okay? We do 21 know that. 22 And then he came back. And even 23 forgetting about the condition in which he came 24 back as described by Diaz. He left. He was real</p>
<p style="text-align: right;">Page 219</p> <p>1 far afield of this expert's opinion that has been 2 disclosed in this case. And it also lacks 3 foundation as the time period what type of sexual 4 assault. It's an incomplete hypothetical. 5 THE WITNESS: Based upon my experience, 6 training, education, I do know that there is 7 prevalence of sexual assault victims being known to 8 the offender beforehand, family relationships, 9 neighbors, school teachers, whatever it might be. 10 I do know that sex offenders many times 11 have high recidivism rates. 12 BY MS. ITCHHAPORIA: 13 Q. Right. But with Robert LaGace you don't 14 know -- there was nothing that you read in any of 15 the materials that indicated that he had a history 16 of sexual violence or that he knew Miss Trunko for 17 more than two days, but yet you concluded in your 18 report that Mr. LaGace had to be regarded by the 19 detectives as a suspect. Is that only because they 20 took Mr. LaGace to get a polygraph? 21 MS. KEEN: Objection. Compound, form, 22 assumes facts not in evidence, and misstates his 23 opinion. 24 THE WITNESS: Since they took him for a</p>	<p style="text-align: right;">Page 221</p> <p>1 anxious to go pick her up. And he came back in a 2 short time. And then he says he didn't see her. 3 And he tells the polygraph operator he didn't kill 4 her. 5 It seems to me that besides confirming the 6 phone call, you know, if he was really legitimate, 7 Bedran would have more information coming from him 8 where he went over, couldn't find her, couldn't see 9 her, you know, because that's important in terms of 10 the time frame between the time she left home when 11 she was on the phone and the time she turned up 12 dead. 13 Q. And that's based on your -- that's based 14 on the assumption that Miss Diaz did, in fact, tell 15 the police officers that information that 16 Mr. LaGace left the tavern and then came back and 17 his appearance when he came back? 18 MS. KEEN: Objection. Form. 19 THE WITNESS: Yeah, that's based on the fact 20 that she said she told that to the police. 21 BY MS. ITCHHAPORIA: 22 Q. Right. And you got that from her 23 deposition testimony? 24 A. That's the only place I remember seeing</p>

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<p style="text-align: right;">Page 222</p> <p>1 it, right.</p> <p>2 MS. ITCHHAPORIA: I think we are probably at a</p> <p>3 good stopping point. I am about to head into a</p> <p>4 different area. I am getting close to your -- like</p> <p>5 five minutes from your hard stop so --</p> <p>6 MS. KEEN: Can you just tell me how much</p> <p>7 on-the-record time we have had total today? Would</p> <p>8 it be possible --</p> <p>9 THE WITNESS: Four hours and ten minutes at the</p> <p>10 last break.</p> <p>11 MS. KEEN: Is that what she calculated or --</p> <p>12 MS. ITCHHAPORIA: That was what the</p> <p>13 videographer's time was.</p> <p>14 MS. KEEN: Okay. So --</p> <p>15 THE VIDEOGRAPHER: We are now at 4:51.</p> <p>16 MS. KEEN: Okay. So you have about two hours</p> <p>17 left for a re-dep, two hours and eight minutes.</p> <p>18 Okay.</p> <p>19 Can you just confirm that with your -- not</p> <p>20 right now but just to confirm your total amount of</p> <p>21 on-the-record testimony, the time we have been on</p> <p>22 the record. Thank you.</p> <p>23 MS. ITCHHAPORIA: Off the record.</p> <p>24 THE VIDEOGRAPHER: We are going off the video</p>	<p style="text-align: right;">Page 224</p> <p>1 STATE OF ILLINOIS)</p> <p>2) SS:</p> <p>3 COUNTY OF COOK)</p> <p>4 Patricia L. Wangler, as an Officer of the</p> <p>5 Court, says that she is a shorthand reporter doing</p> <p>6 business in the State of Illinois, that she</p> <p>7 reported in shorthand the proceedings of said</p> <p>8 hearing, and that the foregoing is a true and</p> <p>9 correct transcript of her shorthand notes so taken</p> <p>10 as aforesaid, and contains the proceedings given at</p> <p>11 said hearing.</p> <p>12 IN TESTIMONY WHEREOF: I have hereunto set</p> <p>13 my verified digital signature this</p> <p>14 12th day of December, 2018.</p> <p>15</p> <p>16 </p> <p>17 Patricia L. Wangler, CSR</p> <p>18 Lic. No. 084-002417</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: right;">Page 223</p> <p>1 record at 3:52 p.m.</p> <p>2 (Whereupon, proceedings were</p> <p>3 had off the video record.)</p> <p>4 THE COURT REPORTER: Would you like me to</p> <p>5 time stamp the deposition?</p> <p>6 MS. ITCHHAPORIA: Yes.</p> <p>7 MS. KEEN: I will take a copy.</p> <p>8 MS. BENJAMIN: I don't need a copy.</p> <p>9 (Whereupon, further</p> <p>10 proceedings in said cause were</p> <p>11 adjourned sine die.)</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	

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